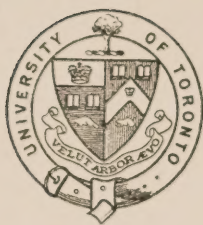


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ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT
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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Convention Hall, Chateau
Laurier, Ottawa, Ontario, on
the 8th day of June, 1960.

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E R R A T A

VOLUME 78

Page 13778, line 14: after "You can get "
insert "rid of "

line 15 delete "your"
substitute "our"

after "would"
insert "not "

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13745	15	"things like that do <u>most</u> of the subsidizing of the burden"
13801	24	"expenses with high labour costs in the east"
13821	20	"It would be <u>higher</u> than out-of-pocket"
13826	1	" <u>Saint</u> Thomas Aquinas"
	3	" <u>natural</u> monopoly"
	4	"that the <u>person</u> should be"
13795	6	America maritimes

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13900	8	solely related solely related cost constant cost
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Ottawa, Ontario,
Wednesday,
June 8, 1960.

---On commencing at 10.00 a.m.

THE CHAIRMAN: Order, please. Mr. Hume?

MR. HUME: Thank you, Mr. Chairman.

WILLIAM HUGHES, continued

CROSS-EXAMINATION BY MR. HUME:

Q. Mr. Hughes, I have about six points that I would just like to discuss with you somewhat briefly, and as I see my learned friend Mr. Frawley isn't here -- he left early last night and he is probably over in the Court Room of the Board of Transport Commissioners -- I will hold the fort until he gets here.

I wonder if you would be good enough, Mr. Hughes, to turn to Part I, page 24, where you develop your submission that British Columbia is dependent upon rail. I only have a few points I would like to ask you about. First of all, did you in your preparation of this brief make any comparative study as to the growth of rail-truck competition in and out of British Columbia, say, since the date of the Turgeon Royal Commission about ten years ago?

A. The position in British Columbia is very hard to get at. I studied the truck registrations in British Columbia, but there is no breakdown



1
2 before the 1956 study by the DBS, and it is very scanty
3 indeed. I can't get the trend except in truck regis-
4 trations. But I have had a look at the Canadian
5 position in the Lessard Report; we get quite a lot
6 there.

7 Q. Would your investigations indicate that
8 there is an important growth in the movement of freight
9 by truck in and out of British Columbia and intra-
10 British Columbia during the period to which you have
11 just referred?

12 A. Yes. I think trucking competition is
13 coming to British Columbia, but it depends very largely
14 on the state of the roads we get, and road building is
15 very expensive, especially to get into the small com-
16 munities, and the only development we have is in the
17 south and in the lower mainland region, and our natural
18 links are in north-south direction and there is a great
19 deal of trucking down to Seattle and down to Portland.
20 There is not much goes beyond that, and these are the
21 trading links that the railway doesn't serve as well
22 as the truck does. There may be a little in the
23 Okanagan Valley, but I am not too sure about that.

24 Q. First of all, may I ask you: ten years
25 ago, when your province made its submission to the
26 Turgeon Commission were you involved in that submission
27 at that time?

28 A. No.

29 Q. I can recall that one of the problems in
30 British Columbia at that time was that there was a ban



1 on trucking through the parks and the trucks moving
2 from the prairies had to go via the United States. Now,
3 that isn't the case now, I understand; there is a road
4 link between the prairies and British Columbia?

5 A. Yes. Whether it is used in winter I
6 can't say, with snow, ice, and so on.

7 Q. In your submission on this page 24,
8 second column, you refer to the fact that there are no
9 reciprocal licensing arrangements between British Colum-
10 bia and the several states or provinces. Have you any
11 reason for the lack of these reciprocal arrangements?
12

13 A. I am not too sure of the cause of it at
14 all, but one of the reasons, I think, is that we are not
15 a bridge province. A bridge province in a reciprocity
16 arrangement gets a great deal of benefit from the trucks
17 going back and forth. With the province at the end
18 of the line, there is not so much benefit from reci-
19 procity.

20 Q. Now, Mr. Hughes, if you haven't studied
21 this or you don't know about this, just indicate and I
22 will go on to something else, but instructions are
23 that this is one of the reasons that a great many of
24 the transcontinental trucking firms are based in Alberta,
25 because Alberta has been very aggressive in finding
26 reciprocal arrangements. Would you know anything about
27 that?

28 A. One of the reasons for Alberta's aggres-
29 siveness in the growth of trucking in Alberta is
30 because they have no trucking regulation as we know it



1 in British Columbia. There is a very limited entry
2 control and rate control, and I wouldn't put it all
3 down to reciprocity at all. I think it may be a factor,
4 but there are many other factors in Alberta besides.

5 Q. I understand there is a considerable
6 amount of transfer freight that is taken to Alberta
7 because of reciprocity arrangements?

8 A. I wouldn't know about that, no.

9 Q. Would you look at your Table XIII-A?
10 This was the interleaf that you filed, opposite page 24,
11 in which you set out the annual licences paid by British
12 Columbia on trucks, and you show there a total of
13 \$7,405. I want to ask you one point about that.
14 This federal use tax, \$90, what is that? Is that
15 federal use tax or a Canadian use tax? What federal
16 government are you referring to there?

17 A. This is the federal government tax in
18 the United States.

19 Q. It is an American tax?

20 A. Yes.

21 Q. And you show there a truck operating, say,
22 between Vancouver and Toronto, will pay the various fees
23 in British Columbia, Washington, Idaho. I would
24 suggest to you that if British Columbia had been aggressive
25 and made these reciprocal arrangements, this Table XIII-A
26 would show a considerably less cost to move the vehicle
27 in a year?

28 A. That is true, of course; but there may be
29 a great deal of licence fees for British Columbia because
30



1
2 it is a terminal province.

3 Q. But British Columbia not being a bridge
4 province isn't required by its geography to make many
5 similar concessions to other provinces. After all, I
6 think you will agree there are not many Minnesota
7 trucks travelling through British Columbia. What
8 would be the loss to British Columbia?

9 A. Any bridge province gets all the trucks
10 going right across all the time, and if the trucks have
11 reciprocity there they get a great deal of benefit and
12 the state gets a lot of revenue from it, and trucks
13 coming into British Columbia under reciprocity ---

14 Q. I don't want to interrupt you, but
15 reciprocity is a two-way street, and if British Columbia
16 gives reciprocity, say, to North Dakota it may help
17 British Columbia a great deal more than North Dakota,
18 because there are not many North Dakota trucks travel-
19 ling to, say, Alaska?

20 A. Yes.

21 Q. Between Vancouver and Toronto you have
22 at the present time three main operators: Gill, intra-
23 provincial lines, D.S. Scott and Torvan. Are these
24 names familiar to you?

25 A. These names are familiar. I believe
26 there are other operators, too.

27 Q. And they either operate by a piggyback
28 or they move through the United States, as you indicate
29 in your Table XIII?

30 A. Yes.



1 Q. And do you have a system where the tractor
2 pulls the trailer to about halfway and then meets the
3 trailer load coming from Toronto and the tractor
4 going back?

5 A. No, they don't actually do that. Be-
6 cause there is reciprocity they just carry the trailer
7 through and have the tractor licensed in each state.
8

9 Q. May I make this suggestion also, that
10 there might be more interprovincial trucking between
11 Vancouver and central Canada were it not for the fact
12 that British Columbia enjoys certain competitive rates
13 and agreed charges which mitigates against truck com-
14 petition. Would you agree with that?

15 A. Yes.

16 Q. My next point is to ask you if you would
17 be good enough in Part I to look at page 31 where
18 you develop the -- page 31, the penultimate paragraph,
19 the last sentence:

20 "However, 'normal' traffic which
21 takes the full amount of any increase
22 is concentrated in the west."

23 By "normal" traffic do you mean traffic moving at
24 class and commodity rates?

25 A. Yes, non-competitive.

26 Q. By "concentrated", you indicate, I
27 think, at page 35 in your brief that 20.5 per cent of
28 your traffic goes to central Canada and 79.5 goes to
29 the prairies?

30 A. Yes.



1
2 Q. How much of the 79.5 per cent -- let's say
3 80 per cent -- of that traffic going into the central
4 and prairie provinces of Canada is normal traffic?

5 A. I don't know until -- I will have to have
6 a look at that and let you know. I don't know offhand.

7 Q. Could the figures given to the Standing
8 Committee on Railways, Canals and Telegraph Lines on
9 April 14th by Mr. L. J. Knowles seem to be reasonably
10 correct, when Mr. Knowles, in answering a question,
11 pointed out that 56.7 per cent is located in what he
12 called the western region. Would that be a reasonable
13 amount of this 79 per cent?

14 A. I couldn't really say, Mr. Hume.

15 Q. By the word "concentrated" in the west
16 you mean the figures Mr. Knowles has indicated here?

17 A. Yes. Well, the west is a big place.

18 Q. Is your belief that more of this normal
19 traffic is concentrated in British Columbia than in
20 other parts of the west?

21 A. I think if you look at table XVI, there
22 are some comparative figures there, and you see that our
23 normal traffic -- if you take the percentages of the
24 traffic there, I think -- it is subject to checking --
25 that we in British Columbia have normal traffic of 67.4
26 per cent ---

27 Q. Are these percentages that you have
28 developed?

29 A. Yes. Other traffic is 32.6 per cent,
30 making 100 per cent.



1
2 Q. Now, Mr. Hughes, my third point comes
3 up with respect to your comment on page 39 under the
4 heading "Effects of unremunerative services". It is
5 a very small point, but I am afraid I don't quite
6 understand, I don't think, what you are saying. It
7 seems to me that the comments on this page and in the
8 second column about halfway down the paragraph where
9 you say:

10 "The raising of rates above costs
11 encourages, say, trucking whose costs
12 may be higher than rail but whose rates
13 are lower. Thus a misallocation of re-
14 sources occurs -- traffic is hauled by
15 the high cost medium and Canadians as
16 a whole are not economizing in their
17 use of transportation."

18 I understand that, sir, but it seems to me that here
19 and elsewhere in your submission you place a complete
20 emphasis on cost, and I was wondering whether or not I
21 am misunderstanding you, whether that cost emphasis
22 that you have takes into consideration service factors
23 where service is sometimes considered to be as im-
24 portant as costs?

25 A. Yes, this statement here, all other
26 things being equal and I realize service factors are
27 as important as costs, and I realize it doesn't
28 necessarily mean that a trucker will be out of business
29 if the rail rates are less because of all these service
30 factors, that the shipper is using the truck because of



1 lower costs.

2
3 Q. I think you indicated to Mr. Mauro
4 yesterday that there are very few circumstances in
5 which, all other things being equal -- and I am wonder-
6 ing whether or not I am misunderstanding your reference
7 to the misallocation of resources. If a shipper de-
8 cides, for one reason or another, he is not as con-
9 cerned with cost as he is, for example, with maybe an
10 overnight service where an alternative means of
11 transport is physically not able to provide that ser-
12 vice, is that a misallocation of resources?

13 A. No, that is not a misallocation of re-
14 sources, because the shipper himself is minimizing
15 his total costs, and I am saying that the transpor-
16 tation agency should also do that and we will have to
17 provide allocation of resources.

18
19
20
21
22
23 (Page 13687 follows)
24
25
26
27
28
29
30



1
2 Q. May I just then recapitulate so that I
3 understand it, that throughout this brief where you
4 are referring to cost and mis-allocation of resources,
5 that this takes into consideration a situation where
6 cost is not even perhaps an element at all where a man
7 has a production system under which he has to have a
8 service that, say for example, only a truck can give him
9 where he uses his own truck or somebody else's, that this
10 is then not a misallocation of resources, for service
11 is as important as the actual cost?

12 A. That is true. Of course, in service
13 that is a cost factor to the shipper. Because he
14 wants to get his goods somewhere in a hurry, he may
15 use trucks or he may use air transport, but there is
16 always a cost reason behind it. He wants to minimize
17 his cost.

18 I say that we in the transportation agencies
19 should also minimize our costs and then the trucker,
20 the shipper, should I say, is using the form of
21 transportation which is least costly in overall terms
22 including the service factors.

23 Q. Thank you, sir. I understand that.
24 Now, this is a very small point, but I read at the
25 last sentence on page 39 and over to page 40 where
26 you say,

27 "But also for the remaining captive traffic

28 "for which competition in transport facilities

29 "will probably never come."

30 That rather surprises me, Mr. Hughes. Are you suggesting



1 that, looking into the future, there is any traffic for
2 which competition might never come?

3 A. Yes, I can think of some kinds of lumber
4 in some places, I can think of minerals, mineral
5 traffic, and I cannot see that competition will come
6 in some areas.

7 Now, there are very small spots, I will
8 admit, as you look into the future, and none of us can
9 say what is going to happen, but as you look at things
10 now I can see that there will be some traffic that is
11 pretty well always captive.

12 Q. Now, Mr. Hughes, this is not strictly
13 speaking my business and I am just curious. Would
14 you look at page 54. In answer to your discussion with
15 Mr. Cooper which occurs at page 13494 and 5 of the
16 transcript, Volume 76, you were discussing your fourth
17 recommendation at the bottom of page 54 that the
18 inequities suffered by other shippers as a result of the
19 statutory rates be adjusted from subsidies received by
20 the railways.

21 MR. BRAZIER: What was that page again, Mr.
22 Hume? I haven't got it.

23 MR. HUME: 13494, and Mr. Cooper was ques-
24 tioning Mr. Hughes as to whether or not, whatever
25 subsidy is paid, as to what happens to it, and Mr.
26 Hughes was giving evidence with respect to the use of
27 that proposed subsidy.

28 Q. I think the tenor of your evidence, Mr.
29 Hughes is, and this is on page 13496, that whatever is
30



1 to be paid with respect to this matter will go for the
2 entire benefit of the shippers -- I presume will be
3 sometimes to the benefit of those shippers who are paying
4 what you call normal rates or class of commodity rates.
5

6 A. The shippers that have had the percentage
7 increases, such a great percentage increase in recent
8 years, have been paying the burden for the statutory
9 grain and other unremunerative service, yes.

10 Q. Just so that I understand the position
11 of this brief, I presume you are not giving your own
12 views but the province's views, and am I correct in
13 assuming that any moneys paid to the railways who
14 compete with my clients will be in your submission,
15 should be tied down to benefiting the shippers, and
16 that the railways will not get any benefit at all to
17 assist their income, their dividend position or any
18 requirement they had, any financial requirements they
19 had.

20 A. The railways will probably get some of
21 the subsidy if it is shown that they have a burden as
22 well as the shippers, so there would be a splitting of
23 any subsidy if there was one on the Crow grain, between
24 the shippers and the railways, depending on what
25 burden each has borne.

26 Q. So that in paragraph 4 on page 54, where
27 you say that "the inequities suffered by other shippers
28 as the result of the statutory rates be adjusted from
29 subsidies received by the railways" it is your position
30 that there would be some allocation of those as between



1 the shippers of normal traffic and the railways, depending
2 on where the burden falls, is that the position?

3 A. Yes, I do not envisage the payment out
4 of subsidy. I am thinking of reduction in tariffs
5 as much as anything.
6

7 Q. Now, Mr. Hughes, my next point deals with
8 what you develop on pages 59 and 60, and as I read
9 that chapter, which is entitled the one and one-third
10 rule, I get the impression that you seek there to
11 indicate how much better Alberta is off for trucking
12 service than British Columbia, to develop your argument
13 that Alberta really are not suffering as the result
14 of the agreed charge not applying to the one and one-
15 third rule, if I interpret your whole chapter correctly.

16 A. Yes.

17 Q. Is that the tenor of your chapter?

18 A. That is one of the points.

19 Q. I am rather surprised at the statement
20 which appears at page 59 under the heading "Competition
21 at Intermediate Points" where in the last sentence of
22 this first paragraph you say,

23 "In this latter respect, Alberta holds a
24 "great advantage over British Columbia where
25 "rail-truck competition is practically non-
26 "existent."

27 Then you develop a series of tables, and as I read
28 those tables it shows that British Columbia is no
29 worse than fourth in the provinces of Canada. How
30 do you reconcile that with your comment that it is



1 practically non-existent? I might just say as an
2 addition to my question, that my instructions are
3 considerably otherwise, and my recollection of the
4 evidence in Vancouver indicates that it is not
5 practically non-existent.
6

7 For example, if you look at Table XXVII,
8 which is your ton-miles and total mileage, I see that
9 British Columbia is fourth in Canada.

10 A. Yes, I would say that is an overstatement,
11 Mr. Hume.

12 Q. It is an overstatement.

13 A. That it is practically non-existent, yes.

14 Q. It perhaps should be amended somewhat
15 to indicate that it is -- I am not going to put words
16 into your mouth -- but could you indicate what the com-
17 petitive picture is? It appears to be fourth in
18 Canada, Mr. Hughes, and if you look at Table XXVIII
19 where you are showing the average for-hire truck
20 population in Canada by province on page 60, I notice
21 that in the large vehicles -- and would you agree with
22 me, sir, that it is the large vehicles that are most
23 competitive with the railways?

24 A. Yes, I would agree with that.

25 Q. That in large vehicles, B.C. has more
26 than Alberta, for example, and in Canada B.C. is
27 second.

28 A. Well, there is a reason for the large
29 trucks in British Columbia. We have greater weights
30 can operate down the West Coast than in other provinces.



1
2 Q. I don't think I want to labour the
3 point. This is in your brief and I think you will
4 agree with me now, you have agreed with me, that it
5 is an overstatement and that there is, you indicated
6 earlier, a growing competition in British Columbia.

7 Now, if you would be good enough to turn to
8 Part 2, I have one or two points with respect to that.
9 Yesterday in discussing the western incentive rate case,
10 Mr. Commissioner Mann indicated that it was his under-
11 standing and it is mine too, that some of the rates
12 were 72 per cent lower than truck rates and that that
13 had been held by the Board of Transport Commissioners
14 as being no lower than necessary to meet competition.
15 You indicate your reasons why, because to compensate
16 for maybe service factor. Then you made this state-
17 ment, that even at the reduction of 72 per cent, trucks
18 are still making the traffic. May I ask whether that
19 is based upon any studies you have made, because my
20 instructions are somewhat to the contrary and I just
21 wondered what your basis is.

22 A. I will just find what I said.

23 MR. BRAZIER: Will you tell us what page
24 that is on?

25 MR. HUME: Well, I just got the transcript
26 this morning. I think, Mr. Hughes, do you remember ---

27 A. What was the statement I made then?

28 Q. Mr. Commissioner Mann interjected in
29 connection with some questioning by Mr. Mauro dealing
30 with the question of your proposed amendment of the



1 section of the Railway Act. Page 13640, Mr.
2 Commissioner Mann says,
3

4 "You have heard Mr. Mauro refer to the
5 "western incentive case, and the percentage
6 "there was given as 50. I recollect that some
7 "of these western incentive rates were up to
8 "72 per cent below the truck rates and that
9 "that was found reasonable by the Board."

10 And the answer,

11 "Yes, and the trucks are still moving the
12 "traffic because the rates were not put
13 "lower than necessary to meet the competition.
14 "The trucks are still competing and they are
15 "sharing the traffic."

16 I just wondered, sir, the basis upon which you made
17 this statement.

18 A. This is what I generally understand from
19 the situation as I am talking to traffic people pretty
20 well all the time in Vancouver and sometimes here in
21 Ottawa, and this is the best of my understanding, that
22 truckers are still sharing the traffic.

23 Q. Now, sir, if you would be good enough
24 to turn to page 24 of Part 2 of your Submission, I
25 just want to see if I understand something. The
26 interest, I may say, Mr. Hughes, of the Canadian trucking
27 industry in this submission of yours is, of course,
28 considerable, because of the fact that it proposes
29 something new and will be, I think you will agree,
30 somewhat of a disturbance of the present rate structure;



1 am I correct?

2 A. Yes, it certainly will be.

3 Q. And because the railway rate structure
4 was historically in existence before the trucks began
5 to run, it is, I suppose you will agree as an economist,
6 normal that truck rates would be related to the existing
7 price structure.

8 A. Yes, in fact they use the existing
9 Canadian freight classification No. 20.

10 Q. Do I correctly understand that this
11 proposal which is outlined in paragraph 85 provides
12 that the minimum is stated as a long-range average
13 out-of-pocket costs?

14 A. Yes.

15 Q. Do I also correctly interpret this that
16 if all traffic -- this is purely hypothetical -- if all
17 traffic moved at that minimum for one reason or another,
18 that there would be no profit to the carrier at all?

19 A. You are quite right, yes.

20 Q. Now, my question to you, sir, is:
21 Why does your province think it is necessary to set
22 this minimum unless you believe that railway management
23 are not carrying out the job of trying to maximize their
24 earnings, profits?
25

26 -
27
28
29
30 -



1
2 A. I stated yesterday in answering the
3 first question, I think it was, and I went on from the
4 night before, that there were several suspect areas
5 where railway management was not recovering out-of-
6 pocket costs, and that is one of the reasons why we
7 do not want the burden placed on the so-called captive
8 shippers, because the railways may feel it necessary
9 in one way or another to reduce rates below the out-
10 of-pocket costs, or, maybe, because they do not do
11 anything about it they may just have to carry the
12 traffic at less than out-of-pocket costs. We want
13 to have this in the regulations so that it would no
14 longer be legal.

15 Q. This would be, as I understand this
16 particular aspect of it, in addition to the railway
17 management's own duties and responsibilities to the
18 shareholders or to the public, as the case may be?
19 This would be an additional regulation that would sort
20 of police them?

21 A. Yes.

22 Q. Then, if the maximum, which I understand
23 is to be set for the captive traffic, is to be a fully
24 allocated cost -- is that correct?

25 A. Yes.

26 Q. --- who decides the fully allocated
27 costs?

28 A. The railways themselves in the first
29 instance would give the figures to the Board of
30 Transport Commissioners for approval in the maximum



1 rate schedule which they would file, and I am hoping
2 that there will be a cost section at some time in the
3 Board of Transport Commissioners, or any other board
4 or department, so that these costs can be looked at
5 by somebody in the regulatory body.

6 Q. But to determine fully allocated costs
7 -- I say to you quite frankly, Mr. Hughes, that I am not
8 an economist and I may be out of my depth here -- do
9 you not have to get rid of subsidies and all payments
10 resembling subsidies? Do you not have to do that in
11 order to be able to determine fully allocated costs?
12

13 A. No. In the grain study a figure of
14 fully allocated cost was given. The effects of
15 subsidies, and so on, can be worked out of the figures.

16 Q. It can be worked out of the figures?

17 A. Yes.

18 Q. Now, at page 11, paragraph 38, you
19 make this point:

20 "To make certain that the low-cost
21 resources are employed (which may be
22 trucks vs. railways), the community must
23 know what the relative costs of the ser-
24 vices are."

25 And then you make this statement:

26 "Obviously, the existence of sub-
27 sidies and value of service and value of
28 commodity rate making will not indicate
29 this."

30 In reading those two sentences together it seems to me



1 that you are making the point that in order to determine
2 the fully allocated costs you have to get rid of all
3 subsidies?

4 A. No. To determine fully allocated costs
5 you have to take into account the effect of the sub-
6 sidies. You would have to do this in the calculations,
7 as was done in the Crow study.

8 Q. Then, my second hypothetical case is
9 this, if all the traffic moved on the railways as your
10 maximum -- that is, if all the traffic was normal
11 traffic moving at the maximum -- does the carrier then
12 make a standard normal profit?

13 MR. BRAZIER: Mr. Chairman and Mr. Hume, Mr.
14 Hughes has prepared a rather lengthy statement of this
15 very problem about which you are asking in your question.
16 Although his memorandum might not be exactly responsive
17 to your question, with the Chairman's permission and
18 with your permission, Mr. Hume, I think it would be as
19 well for him to put it on the record at this stage.

20 THE WITNESS: I have not it here right now.

21 MR. BRAZIER: I am sorry, I thought Mr. Hughes
22 had it with him. He has it in his room. Maybe we can
23 have it later.

24 MR. HUME: Q. You can introduce it at any
25 time you like, but I had hoped to make my point, and I
26 wonder whether or not -- I am sure that the memorandum
27 will be very useful to the Commission, but I wonder
28 whether Mr. Hughes could indicate now in a word whether
29 my assumption is correct, namely, that if all the traffic
30



1
2 is normal traffic moving at its maximum, as is required
3 in your formula, that will envisage a normal profit
4 for the carrier? In other words, in determining
5 fully allocated costs is the determination based upon
6 the fact that all the traffic moves at that rate?

7 A. If all the traffic moved at the fully
8 allocated cost there would be a normal profit.

9 Q. So if some of the traffic moves at below
10 that then the carrier is making less than a normal
11 profit?

12 A. If some of the traffic is carried at less
13 than fully allocated costs then you are quite right;
14 the railways would not make a normal profit.

15 Q. At page 13660 of yesterday's volume you
16 make a statement which I interpret as indicating that
17 your competitive traffic will always be below its
18 maximum. I will read from about line 13 where you
19 are talking to Mr. Mauro about the sky being the limit
20 with respect to this competitive traffic; you said:

21 "A. No, the sky is not the
22 limit. The competition is the limit.

23 "Q. All right, we will go back
24 to what the traffic will bear. You
25 used those words.

26 "A. If the traffic becomes com-
27 petitive it is pretty automatic that the
28 rate is going to be less than it would be
29 if it was captive traffic. . . ."

30 Would not that be less than your maximum where you have



1 most of your traffic moving in an area where the carrier
2 makes less than a normal profit?

3 A. I was talking about traffic moving from
4 the competitive classes to the captive classes. In
5 the United States burden study, in the manufacturing
6 and miscellaneous class, which is probably the most
7 competitive of all, you will find competitive items
8 there that carry two and a half times their fully dis-
9 tributed costs. It does not necessarily mean that
10 because a traffic is competitive it cannot bear its
11 fully allocated cost. It depends largely on the costs
12 of the railroad and the costs of the competitor --
13 those will determine the rate at which it will travel,
14 and from then on it is above the fully allocated cost.

15 Q. I think you will agree with the situation
16 here that the normal traffic, or the traffic which will
17 be at its maximum, is in a shrinking area, and that by
18 far the larger per cent is competitive traffic which
19 would, therefore, be in that area. Am I misinter-
20 preting what you are saying?

21 A. The point is that we do not know what
22 the fully allocated costs are. I agree with you;
23 the traffic is becoming more and more competitive, and
24 as competition grows there will not be any need for
25 this maximum. If we had no captive traffic at all I
26 do not think there would be any need for a maximum.

27 Q. May I just ask you, as a layman, a very
28 simple question: If this was put into effect the way
29 you propose it, what would happen? Would some of the
30



1 normal traffic come down? Would that be your expect-
2 tation? Would the rates on some of the normal traffic
3 come down?

4 A. Some of them might come down and, on the
5 other hand, the maximum rate schedules, as I see it,
6 might be actually above the rates at which traffic is
7 actually moving today. If you take coal, for example,
8 and I always have to speak from the United States
9 studies because we do not have any in Canada -- if you
10 take the maximum rate schedule on the fully distributed
11 cost then the maximum rate schedule would be above
12 the present rate, and the same thing would occur for
13 wheat in the United States, and it would occur for
14 fertilizers, I believe -- quite a few commodities.
15 Lumber is another one.

16
17 MR. SINCLAIR: Did you say wheat in the
18 United States?

19 THE WITNESS: No, not wheat -- I beg your
20 pardon. There is lumber in Appendix A which Mr.
21 Frawley introduced, and coal. They are the two big
22 items that I can think of where the maximum rate
23 schedule would be above the present rate so I do not
24 envisage that rates on normal traffic will go down.
25 I think there will be a movement the other way, and
26 that the maximum rate schedule would be above the
27 present rate.

28 MR. HUME: Q. So that your lumber to which
29 you referred yesterday as having too high a rate as
30 between Vancouver and Toronto -- that would go up?



1
2 A. Yes, the maximum rate schedule could
3 easily go up.

4 Q. And, as a matter of fact, it is one of
5 the things that the Turgeon Royal Commission worried
6 about when they did not see fit to adopt this cost of
7 service principle, notwithstanding the remarks of my
8 learned friend Mr. Brazier. At page 119 under the
9 heading "Conclusions and Recommendations," the report
10 says this:

11 "The proposal submitted by British
12 Columbia has not been shown to be a prac-
13 tical one. The amendment is expressed
14 in terms which might have a more far-
15 reaching effect than appeared to be in
16 contemplation by counsel. It might,
17 indeed, lead to much higher rates than
18 at present being charged on low-valued
19 primary commodities."

20 That is the thing they were referring to, and you agree
21 now that that is one of the things that might happen?

22 A. There is nothing different. In that
23 respect the present maximum rates are the class rates,
24 and the class rates on lumber are much higher than
25 fully allocated cost, so there is nothing now to stop
26 the rates going right up to the class rates. Our
27 proposal would bring, I think, the maximum rate
28 schedules down below the present cost schedules as a
29 maximum, so Commissioner Turgeon would have less to
30 worry about now than he did have then, because now



1 the rates will only be able to go up to the fully
2 allocated costs.

3 Q. As I understand it, the maximum which
4 you envisage would result in those rates going higher
5 than the present class rates?

6 A. I do not know which will go higher.
7 I think the railway is probably maximizing its revenues
8 now, and that there is no need to put the rate up,
9 but there would be a ceiling, and this ceiling would
10 be cost-oriented.

11 Q. What do you envisage would happen to the
12 rates on captive traffic? Would they go up or down,
13 on the average?

14 A. It depends very much on the competition.
15 If there are any rates below the out-of-pocket costs
16 than those rates will go up.

17 Q. I was thinking of the captive traffic,
18 using your phraseology, as being traffic for which there
19 is no reasonable competition?

20 A. Yes.

21 Q. Would those rates go up or down on the
22 average, under your proposal?

23 A. That would be impossible to say.

24 Q. Would the competitive rates have to move
25 in order to compensate -- if you have a rate going down
26 on your captive traffic the carrier would earn that
27 revenue somewhere. I am trying to figure out, if I
28 can -- and no doubt it is me who is to blame here in
29 not being able to understand this properly, but I want
30



1 to know what is going to happen to the rate structure.

2
3 A. If rates on competitive traffic are
4 below out-of-pocket costs, then those rates will go
5 up.

6 THE CHAIRMAN: Would you think that sand
7 and gravel, for instance, would go up?

8 THE WITNESS: You are thinking of it as a
9 captive traffic?

10 THE CHAIRMAN: Yes.

11 THE WITNESS: No, I cannot see that any
12 captive traffic rates would go up because the railways
13 are maximizing their revenues now. All I am asking
14 for is a ceiling on the captive traffic rates. I am
15 asking that as a ceiling, and not as an actual rate.

16 COMMISSIONER GOBEIL: That would be another
17 class rate?

18 THE WITNESS: Yes.

19 MR. HUME: Q. Could I sum it up this
20 way; I think I understand what you say now, that if this
21 proposal is adopted there will emerge a new set of
22 rates. Some of the normal rates will be higher than
23 they are now, and some will be lower, and there will be
24 a sort of a completely new rate schedule that will bear
25 no or little relationship to the present rate schedule?

26 A. We have said that this will take place
27 over a long period of time, and I cannot see any chaos,
28 or anything like that, occurring.

29 Q. With respect to my next point I will ask
30 you to turn to page 26 of Part 2. and as an introduction



1 to my point I just want to read you paragraph 94 where
2 you make this point:

3 "The motor carrier industry in
4 Canada is in no position to stand any
5 railway onslaught of selective price cut-
6 ting, and the loss of even one route by
7 a motor carrier could have serious con-
8 sequences for his entire business and
9 body of customers."
10

11 As I read this statement I take it that the Province of
12 British Columbia agrees that what you call predatory
13 price cutting is not in the interests of the public of
14 Canada?

15 A. By predatory price cutting I mean
16 setting rates by the railways at less than out-of-
17 pocket costs.
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2 Q. And in order to accomplish that you have
3 indicated to my learned friend, Mr. Cooper, at page 13557
4 of the transcript that you would amend Section 334 of
5 the Railway Act, paragraph 2, subsection (c), with
6 respect to the fact that rates are not lower than
7 necessary to meet competition. If it is the view of
8 your province that the elimination of part of the
9 trucking competition is not in the public interest,
10 what safeguard would you put in the Railway Act to
11 ensure that competition would continue in Canada?

12 A. I think the Railway Act would not need
13 anything other than to say that rates shall not go
14 below out-of-pocket costs. On this very question,
15 if the whole Railway Act was altered to get this scheme
16 into effect, then, in fact, the trucking business would
17 benefit very greatly, especially in the short-haul
18 fields. We have terminal expenses which are very
19 high. The short-haul field would be left open for
20 the trucker. On the medium-haul field, I can't see
21 any decline, especially in those fields in which the
22 truckers have a natural advantage. I don't think the
23 railway needs anything further than to say the railway
24 rates shall not go below cost.

25 Q. You want to remove from the Railway Act
26 that provision which provides that rates should not go
27 any lower than necessary to meet competition, and your
28 proposal indicates that rates shall not be lower than
29 out-of-pocket costs. Now, who determines what are the
30 out-of-pocket costs -- or, to put it the other way, who



1 determines whether the level has gone lower than
2 necessary to meet your standard?

3 A. Again, this depends on a cost-finding
4 section of a regulatory body.

5 Q. And it would be somebody's opinion --
6 the judgment of somebody as to whether or not the
7 rates were lower than to meet out-of-pocket costs?
8

9 A. It is a little bit more than opinion,
10 I think. It would be a statistical calculation. I
11 know these things are always open to question.

12 Q. Well, if I have paid any attention to
13 what has gone on before this Commission, it seems
14 to me the determination of costs is largely a matter
15 of somebody's opinion.

16 A. Under the present set-up, it shall not
17 be lower than necessary to meet competition; it is
18 always a matter of opinion whether they shall be the
19 same or what the service factors are -- what are the
20 rates of the competitor, and they don't know much about
21 that. There is an awful lot of judgment and common
22 sense used to make sure the traffic is shared by both
23 agencies.

24 Q. If the decision as to whether or not
25 the rate has gone below your out-of-pocket costs --
26 and this is to be decided judicially by the Board
27 or some section of the Board -- would you permit the
28 competitive agency -- in this case the trucking
29 industry -- to appear before the Board and have some
30 say in the finding as to whether or not they are lower



1 than out-of-pocket costs? Would you permit the truck-
2 ing industry the right, under the Railway Act or the
3 Transport Act, to appear on a proceeding if there was
4 some question as to whether the rates were lower than
5 out-of-pocket costs?
6

7 A. I am not sure of the legal position now.

8 Q. Well, they can't do it now. In deter-
9 mining whether rates are lower than necessary to meet
10 competition, the Board extends the courtesy.

11 A. I would not see any reason for that if
12 the cost-finding section was made up of men who knew
13 their job.

14 Q. So you could have the situation at a
15 hearing of the cost-finding section concerning the
16 trucking industry between A and B, that they
17 would not have the right to appear in the proceedings?

18 A. I am sure these men would know their
19 job, but by the same token the trucking agencies between
20 C and D would benefit from this, because it would price
21 the railways right out of the short-haul field -- and
22 often out of the medium-haul field too.

23 Q. I am not so concerned with those people
24 who are not going to be adversely affected by your
25 proposal. I am concerned with your proposal and the
26 effect it may have on certain areas in Canada on the
27 trucking industry which, by your formula, by your
28 cost of service principle, might be eliminated?

29 A. You say, yourself, the service considera-
30 tions are a great factor, and that being so, there are



1 many reasons, probably, why people should use trucks
2 between Vancouver and Toronto. They do, and the
3 rate is much higher, but they use them because all
4 the service considerations enter into it. I can't
5 see any reason for the trucking industry to worry
6 unduly, and I can see a growth of traffic on the
7 short-hauls on the branch lines, and so on.
8

9 COMMISSIONER MANN: Mr. Hughes, do I under-
10 stand from what you have said to Mr. Hume that you
11 consider it essential that questions concerning dif-
12 ferences of opinion on out-of-pocket costs must be
13 settled by judicial proceedings before the Board,
14 much as we conduct a case before the Board today? Is
15 that essential to the success of your scheme?

16 THE WITNESS: I don't anticipate any
17 hearings before the Board on out-of-pocket costs.
18 I would hope this would be done internally in the Board.

19 COMMISSIONER MANN: Your idea is that these
20 matters are going to be handled in much the same
21 fashion as they are handled in Britain, where a road
22 hauler can claim that he thinks the rate is below
23 cost, and then the tribunal looks into the matter,
24 or someone does -- or no-one does? What is the
25 situation?

26 THE WITNESS: I really don't know what
27 happens in England.

28 COMMISSIONER MANN: There are no legal
29 proceedings before the tribunal.

30 THE WITNESS: There are if anybody thinks



1 the rate is unreasonable on captive traffic.

2
3 COMMISSIONER MANN: Oh, that is on captive
4 traffic only.

5 THE WITNESS: There are no other proceedings
6 for meeting rates, I am quite sure.

7 MR. HUME: Q. On page 30 of your submission,
8 part 2, and in your discussions with Mr. Mauro yester-
9 day at page 13660 of the transcript, Mr. Mauro
10 suggested it would be to the railways' benefit to move
11 to have the present non-competitive traffic competitive,
12 because as non-competitive traffic they could only
13 charge for the distributed costs, but if the traffic
14 becomes competitive, the sky is the limit. You corrected
15 it by saying,

16 "No, the sky is not the limit.. The competi-

17 "tion is the limit."

18 My question is, who decides whether traffic is competi-
19 tive or otherwise? You use the word "no reasonable
20 competition". It seems to me to involve somebody's
21 decision as to whether there is sporadic, constant,
22 reasonable or unreasonable competition. Who is going
23 to decide whether a particular segment of traffic is
24 competitive or not to bring it out of this maximum limit
25 that you have set?

26 A. The railways would apply to the Board
27 to bring any traffic out of the captive segment into
28 the competitive segment.

29 Q. If the railways own a truck line
30 paralleling to A and B, could they provide their own



1 competition and thus move it -- under your proposal?

2 A. Under my proposal, that would seem to be
3 so.

4 Q. Finally, at page 35 of your submission,
5 and at page 13586 of the transcript, you were explain-
6 ing the system in the United Kingdom, and you said
7 they were not doing well. My information indicates
8 that they are losing millions.

9 A. I don't know how many millions.

10 Q. And we are talking about pounds, not
11 dollars?

12 A. Millions of pounds, yes.

13 Q. Isn't one of the differences between
14 transportation problems in the United Kingdom and here
15 the fact that in the United Kingdom all traffic is
16 virtually short-haul traffic?

17 A. If you look at long-haul from the British
18 point of view, then you look at traffic of about 150 or
19 200 miles; but, there is quite a bit of trucking up to
20 400 miles which is about the limit. There is a lot of
21 short-haul trucking and railroading.

22 Q. Yes. I think you would agree with me,
23 coming from the Province of British Columbia, and by
24 reason of the fact that you are where you are geo-
25 graphically, that this situation, and one of the reasons
26 why this Commission is sitting now, just does not exist
27 in the United Kingdom. There are very few shippers
28 in the United Kingdom who could not move their own
29 goods in their own trucks overnight?
30



1
2 A. Yes, and I said also in the transcript
3 yesterday that our scheme was nothing like the scheme
4 in England. It is just put there to show how one
5 or two other countries do it in Europe. But, I am
6 not suggesting it is the same as the British scheme.

7 Q. In your submission you do indicate
8 how rate-making is carried on in other countries, in
9 order to be helpful and informative to the Commission,
10 but arising out of this exchange in yesterday's
11 transcript, and recalling the evidence presented by
12 Mr. Creery before the Royal Commission on agreed charges,
13 I want to know if you agree with me that in addition
14 to the problems of overcapitalization and so on, there
15 are other problems that do not exist in Canada, and
16 in rate-making in the United Kingdom you have to look
17 at it from a completely different point of view?

18 A. The situation is not parallel at all.
19 One rate system for one country is not a good standard
20 for another country unless the conditions are the same.

21 Q. Mr. Hughes, thank you very much for your
22 help. As I read your submission, I have one final
23 question to put to you: I understand your background
24 is that you are at the University in economics and
25 interested in transportation. Is this scheme of
26 yours, in your opinion, an interesting academic
27 exercise in rate-making, or do you feel this is a
28 practical matter for Canada?

29 A. I certainly didn't write this as an
30 academic exercise. I think it is a real, practical



1 scheme, and it is something we have wanted for a long
2 time in British Columbia, looking at the interests of
3 Canada as a whole. As I said, we may get higher
4 rates in some areas, and lower rates in other areas,
5 but it is certainly not an academic exercise.
6

7 MR. HUME: Thank you.

8 ---A short recess.
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2 THE CHAIRMAN: Order, please. Mr. Frawley?

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4 CROSS-EXAMINATION BY MR. FRAWLEY:

5 Q. Mr. Hughes, I suppose you would agree
6 with me that, particularly since Section 334 of the
7 Railway Act was enacted, now there is an attempt to
8 police rather carefully the competitive rate structure.

9 A. I don't know how effective that policing
10 is, Mr. Frawley. I am just trying to remember the
11 number of cases that have been up, and I don't think it
12 is very many.

13 Q. As a matter of fact, I don't think it
14 changed the law; it seemed to spell out in some
15 paragraphs what probably has been the law before. In
16 the jurisdiction of the Board, a competitive rate should
17 reflect the competition. That is perhaps a wrong way
18 of stating what the position was and still is.

19 A. Yes.

20 Q. And a rate that doesn't reflect the
21 competition can be complained again. If a competitive
22 rate remains in force after competition has disappeared,
23 then it can be made the subject of a complaint or a
24 request for it before the Board under Section 334.

25 THE CHAIRMAN: I don't want to interrupt the
26 proceedings, but I understand that we can resume at
27 two o'clock in our old home at the Board of Transport.

28 THE WITNESS: Under Section 334, they
29 can't do that, Mr. Frawley. Nobody can complain to the
30 Board when there is no competition, can they? I am not



1 a lawyer; I am just reading it.

2
3 MR. FRAWLEY: Q. Did you say that under
4 Section 334 you can or cannot complain?

5 A. I don't think you can complain and have
6 a rate put up if there is no competition there. I
7 don't know if I understood your question correctly.

8 Q. I put it to you that, having in mind
9 Section 334 -- now, I am quite aware that there is no
10 sanction, it is simply a section conferring certain
11 powers of investigation on the Board, which I suggest
12 they probably always had -- but surely, looking at
13 that statute, it is there so that interested parties
14 can call certain situations to the attention of the
15 Board so that the Board then can put into operation the
16 machinery set out in Section 334. You would agree
17 with that?

18 A. Well, it may be so, but maybe the
19 Board itself on its own motion can act under Section 334.

20 Q. Quite, quite. Then if you want to
21 read Section 33 along with Section 334, you find there,
22 Section 33, subsection 1, subparagraph (a), that the
23 Board has a jurisdiction and a duty, I would say,
24 concomitantly, to investigate any matter which is the
25 subject of complaint by any person that a company, a
26 railway company, has failed to do anything required.
27 I am only putting it to you, as you already agreed
28 with me, that it is the spirit, at least, if not the
29 letter, and, indeed, perhaps the letter, of Section 334
30 that a competitive rate should reflect the competitive



1 situation. Would you agree with that?

2 A. Yes, I would agree with that.

3 Q. I take it from that that if I am a
4 receiver of freight anywhere I can and I ordinarily do
5 demand and receive from the railway a rate, a competitive
6 rail rate because there is available to me an alternative
7 form of transport.

8 A. Oh, yes.

9 Q. And that the railway endeavours to
10 match the price of the competitive form of transport
11 when they publish for me and for the whole shipping
12 world the competitive rate in question.

13 A. Yes.

14 Q. Now, that applies, I take it, to the
15 City of Vancouver as well as the City of Toronto and
16 every other place where freight is received on the
17 lines of the railways in Canada.

18 A. Yes.

19 Q. That being so, I am wondering just what
20 you mean when you say on page 56 of Part 1 of your
21 submission under the general and intriguing caption of
22 "Inequities of the One and One-Third Rule": "The rule
23 burdens the transcontinental shipper by reason of the
24 long-haul rates being higher than they would be other-
25 wise."

26 And continuing on with what appears to be the
27 same thought:

28 "The rule burdens shippers and receivers in
29 "British Columbia in that they are deprived
30



1 "of potentially favourable railway rates."

2
3 Now, will you tell me, please, how the fact
4 that the railway -- let's assume that the railway
5 decided to increase the rates to the Coast, the com-
6 petitive rates to the Coast. I am going back to
7 1951 when the one and one-third rule came into effect.
8 Assuming that the railway desired to increase the rate
9 to the West Coast because they did not choose to suffer
10 what they call an invasion of their revenues at the
11 intermediate points, would you tell me how that would
12 require the shipper, the receiver in Vancouver to pay
13 any more?

14 A. If there is competition there, if there
15 is effective competition and this competition is coming
16 in, then the shipper would not have to pay -- the
17 receiver would not have to pay any more. If it was
18 potential competition, maybe he would have to pay some
19 more, and quite a few rates went up after the one and
20 one-third rule came in.

21 Q. The competitive rate was there because
22 there was an alternative form of transport to the
23 receiver?

24 A. Yes.

25 Q. Assume that the railways said to the
26 shipper: "Oh, we are going to put your rate up by a
27 dollar". Surely the shipper in Vancouver would say:
28 "I am going back to the boat".

29 A. The boat would say we will put our rate
30 up by 98 cents.



1
2 Q. Assuming they put their rates up because
3 they said they didn't like the situation at Edmonton
4 and Calgary, I am putting it to you that that would not
5 require the Vancouver receiver to pay any more freight
6 rates.

7 A. I don't agree, because the alternative
8 form of transport rates would move up in sympathy if
9 they were competitive in the first place.

10 Q. Surely the railways wouldn't have put
11 it in in the first place if that was the situation.

12 A. Well, there must have been competition
13 there, because otherwise the rate wouldn't be there.

14 Q. That's fine. If the competition was
15 there and the shipper is in the driver's seat, he can
16 say: "You will not put up my rate, because I will go
17 to the alternative form of transport".

18 MR. BRAZIER: Is that a question you are
19 putting to the witness, Mr. Frawley?

20 MR. FRAWLEY: I am inviting the witness's
21 comment on that. I am sure the witness isn't timid;
22 he certainly shouldn't be after having lived with my
23 friend, Mr. Brazier, for a long time.

24 Q. I am putting the proposition to you,
25 and if you have any comment to make, this is the time
26 to make it.

27 A. I don't think I can make any comments on
28 it, Mr. Frawley.

29 Q. What did you say?

30 A. I don't think I can make any comments on



1 it. I can't see the question in it. It seemed like
2 a statement.

3 Q. I simply put it to you that if the
4 rate was justified in the first place, it was justified
5 because there was competition there, an alternative
6 form of transport.

7 A. Yes.

8 Q. Then I put it to you that a shipper does
9 not have to pay the increased rate that the railway
10 puts against him because he can turn to the alternative
11 form of transport.

12 A. He can turn to the alternative form of
13 transport because the rate can go up against the
14 railway. He can turn to competitors, sure, but the
15 competitor now has no competition at that point and he
16 can now put the rate up.

17 Q. I put it to you that if the railways,
18 by reason of the one and one-third rule, or, indeed,
19 any other rule, can increase the transcontinental
20 competitive rate, then the only reason that can be
21 shown for that is that the transcontinental rate was
22 too low in the first place.

23 A. I can't agree with you.

24 Q. Isn't that basic to the making of a
25 competitive rate; it is not justified unless there
26 is an alternative form of transport.

27 A. The reason the transcontinental rates
28 go up is because of the one and one-third rule, not
29 because the rate was too low in the first place. The
30



1 rate was there to make the competition in the first
2 place, and now if the one and one-third rule goes up
3 and the rate goes up, it goes up because of the one and
4 one-third rule.

5 Q. It couldn't go up because of the one and
6 one-third rule or any other rule, because they go to the
7 shipper and say: "We are putting up the rate", and
8 the shipper doesn't care whether it is going up on
9 instructions from Montreal; he says: "You are not
10 putting up my rate. I am going to the alternative form
11 of transport."

12 A. If the railway puts up its rate not be-
13 cause of the one and one-third rule and the man says:
14 "All right, I will now go to the competitor", what is
15 to say that the competitor's rate is not now the same
16 as the rail rate, because it is a water-compelled rate,
17 otherwise it would not have been a competitive rate
18 in the first place.

19 Q. If the rate goes up because the railway
20 is afraid or has knowledge that the price of alternative
21 transport has gone up, that is one matter, and they
22 would automatically increase their rate if the alterna-
23 tive form of transport went up. But I am talking
24 about a managerial decision that they will not permit
25 parity rates and they decide that they will increase
26 the rate to the Coast because that will remove the loss
27 of revenue at the intermediate points. We are agreed
28 on that.

29 A. Yes.
30



1 Q. And say there was a rate there of a
2 dollar to Vancouver, and they say: "We will put that
3 up to a dollar and a quarter and we then charge Alberta
4 \$1.35 plus one-third and that will take care of the
5 revenue situation."

6 A. Yes, you are describing the situation.

7 Q. Now, whether or not the receiver in
8 Vancouver has to pay the increased rate depends entirely
9 on the position of that shipper vis-a-vis the alternative
10 form of transport. That surely is true, isn't it?

11 A. I would qualify that and say again that
12 if he goes to the competitor, then the competitor's
13 rates have, in all likelihood, gone up in sympathy with
14 the increased railway rates.

15 Q. You may not intend to be unresponsive,
16 but I put it to you that you are not responsive to my
17 question. What the alternative form of transport may
18 do may be something else. I am talking about a shipper
19 who has a rate which was given him because there was
20 an alternative form of transport or alternative
21 market available to him, and I put it to you that as
22 long as that market competitive force or carrier
23 competitive force remains, it is going to determine
24 the shipper whether he goes by railway or not.

25 A. I am not responsive to your question,
26 probably, in the way you want me to be responsive; but
27 I think if the railway rate goes up and the shipper goes
28 to the competitor, there is nothing to guarantee that
29 the competitor's rate is down where it was. As soon as
30



1
2 the railway rate goes up, then the competitor's rate
3 will go up because they were competitive rates in the
4 first place, and will remain so.

5 Q. It is not a very honest -- I am not
6 using the word offensively -- it wasn't very honest
7 bargaining between the railway when the rate went up
8 in the first place.

9 A. Between what?

10 Q. When the rate went up between the
11 shipper and the railway. The shipper knew there was
12 an alternative form of transport which would bring his
13 goods in at X dollars, and the railway said: "We will
14 meet the rate that was quoted to you by the alternative
15 form of transport", and that is the sort of bargaining
16 that precedes the alternative form of rate.

17 A. I don't know.

18 Q. Now, take the rate we hear a great deal
19 about, the rate that was given to the Steel Company,
20 rate-making, agreed charge on steel sheets and plates
21 out to the West Coast at a rate that will shut out
22 the steel sheets and plates coming from Montana,
23 California. That was the sort of competitive situation
24 to meet and take care of the steel sheets and plates
25 coming from Hamilton to Vancouver. Were you aware of
26 that situation?

27 A. I don't know why exactly the low rate
28 was put in, but I do know that we have some low per
29 ton-mile rates into Vancouver.

30 Q. You didn't know that market competition



1. entered into the quoting of the low agreed charges on
2. steel sheets and plates from Hamilton, Algoma, or
3. maybe even Sydney, to Vancouver.
4.

5. A. I don't know. It is a great factor in
6. skelp; market competition helps to keep the rates
7. down.

8. Q. And if the railways a month or six
9. months after they quoted the rates turned around and
10. said to the steel company: "We are going to put that
11. rate up by 40 cents or 50 cents", don't you think the
12. steel company would say: "No, you are not, because it
13. will come in from Montana".

14. A. Yes, if you are talking about market
15. competition, I can quite see that situation.

16. Q. What is the difference between the
17. justification for a competitive rate between market
18. competition and carrier competition?

19. A. In the first place, if the carrier is
20. in competition and one of them puts the rate up, then
21. the other one does. The market competition would be
22. different, it would seem to me.
23.
24.
25.
26.
27.

28. (Page 13725 follows.)
29.
30.



1 Q. If a rate is put in to meet water
2 competition through the Panama Canal, and I mean
3 carrier competition, the rate that is put in is in-
4 tended to reflect the rate of the alternative form of
5 transportation through the canal? That is basic,
6 must be so?

7 A. Yes.

8 Q. All right, I want to understand you.
9 If you say that the railways for some reason best
10 known to themselves, and we will take the dislike of
11 the reduction of their revenues in intermediate terri-
12 tories, because of the application of the one and one-
13 third rule, let us take that as a reason: they go to
14 the shipper in Vancouver and say: "We are going to
15 put your rate up by 50 cents," and it has been put
16 down by reason of the traffic through the Panama Canal.
17 What is that that you are saying, that the rate through
18 the Panama Canal is going to go right up?

19 A. I know that the last 17 per cent in-
20 crease in railway rates, I was talking to a trucker in
21 Alberta and he came and he was rubbing his hands and
22 said, "Good, the railways put up their rates by 17
23 per cent. I am going to put mine up by 15 per cent."
24 And there is no reason why the ships should not do the
25 same.

26 Q. Mr. Hughes, I just want to ask you one
27 thing about your Exhibit A. If you read this Exhibit
28 A, this being a list of rate changes, cancellations and
29 increases which were brought about solely by virtue of
30



1 the application of the one and one-third rule ---

2 A. This is as it was put in by the Canadian
3 National Railways at the time, yes, before the Royal
4 Commission on Agreed Charges.

5 Q. That is what you understand?

6 A. Yes.

7 THE CHAIRMAN: Appendix A.

8 MR. FRAWLEY: Appendix A.

9 Q. Well, Mr. Hughes, if you understand
10 that you will probably be surprised when I tell you
11 that there are 80 rates, 80 pieces of traffic listed in
12 Exhibit A. Did you read the transcript during the
13 second Turgeon Commission?

14 A. Yes.

15 Q. You say you did?

16 A. Yes.

17 Q. Did you happen to read Mr. Edsforth's
18 cross-examination?

19 A. I would have done. I cannot remember
20 about it now.

21 Q. Well, if you did read it, then I think
22 you will have to agree with me that after many hours
23 of searching through that Appendix A for instances
24 where the increase had been made as a direct
25 result of the one and one-third rule, Mr. Edsforth
26 was able to turn up 13 out of 80. Were you aware of
27 that?

28 A. No.

29 Q. Well, I commend a reading of the transcript
30



1 to you, because I put it to you, and I will ask you
2 if I am right or not: I put it to you that the vast
3 majority of the rate changes that you find in Appendix
4 A and which are to be found in Exhibit 15, the photo-
5 stat of the original of which I have in my hand, were
6 due to just a housecleaning by the Canadian Freight
7 Association and the two railways in which they increased
8 a lot, took out a lot of deadwood in the transcontinen-
9 tal freight rate structure. Did you never hear that?

11 A. No, there are still a lot of those rates
12 in effect now today, in Appendix A; there are still a
13 lot, I would say there are more than 13 in effect.

14 Q. All right, that is the next question I
15 am going to ask you. You say that notwithstanding
16 the fact that now, due to a Judgment of the Board of
17 Transport Commissioners with respect to the conflict
18 between Section 32 of the Transport Act and Section 337
19 of the Railway Act, that notwithstanding the fact that
20 due to that conflict the one and one-third rule does
21 not now apply to agreed charges, are you telling the
22 Commission that now the fact that the one and one-third
23 rule still does apply to a transcontinental competitive
24 rate, that that is a serious matter to the Province
25 of British Columbia and industry in the Province of
26 British Columbia?

27 A. It does not matter whether it harms us
28 or benefits us. It is an artificiality in the rate
29 structure. It is one of those things in the rate
30 structure that we are trying to get straightened up.



1 You have been talking about this for a long time your-
2 self, Mr. Frawley -- get the rate structure put on
3 some reasonable basis. It is a distortion, I think,
4 in the rate structure, whether it is right or wrong.

5 Q. Mr. Hughes, are you here just advocating
6 a tidying up of the freight rate structure?

7 A. No, I am not.

8 Q. Or are you here presenting the grievances
9 of the Province of British Columbia with reference to
10 the Canadian freight rate structure?

11 A. I am saying in the brief that the Province
12 of British Columbia has suffered needlessly from the
13 one and one-third rule.

14 Q. Has suffered, you say?

15 A. Yes, needlessly.

16 Q. If you have finished, I would like to ask
17 you to be good enough to tell me -- and you can take all
18 the time you need -- I would like you now to tell me the
19 names and addresses of the industries in the Province of
20 British Columbia that are now disadvantages as a
21 result of the application today of the one and one-third
22 rule?

23 A. I can't do that obviously because they
24 are not getting the low rates that they should be, and
25 this is a very hypothetical thing to go out and get the
26 names and addresses of somebody who does not get the
27 rate that he could have if the rule was not there.

28 Q. I am sorry, I cannot hear. It is cer-
29 tainly the fault of the room. Would you mind repeating
30



1 what you said? Can you do that or not?

2 A. No, I cannot do it.

3 Q. You cannot do it. I put it to you, Mr.
4 Hughes, and it is an obvious thing I put to you, that
5 you cannot do it because there is no industry which,
6 because of the situation with regard to agreed charges,
7 that is suffering because of the application of the
8 one and one-third rule in your province?

9 A. I do not agree with you at all.

10 Q. Then will you please put on this record
11 now or at some later date the names and addresses -- I
12 don't care about the addresses because I can look them
13 up myself -- the names of the industries in British
14 Columbia that are suffering. It may be a joking
15 matter for the Province of British Columbia, but we
16 regard very resentfully what you have done here, and I
17 would like Mr. Brazier to know that too, that you should
18 go to the trouble to spread yourself over all these
19 pages, but you have such a serious job to do to
20 advance your cost of service principle, that you would
21 flog this dead horse of the one and one-third rule
22 through twenty-five pages.

23 Would you just tell me where in the Province
24 of British Columbia today the one and one-third rule
25 is doing five cents of harm, just five cents?

26 A. We can't go out and get the names and
27 addresses of firms who do not get a tariff that they
28 would get if the one and one-third rule was not there.
29 It is just not practical to do it.
30



1 Q. It does not apply to agreed charges.
2 All a fellow has to do is to get an agreed charge?

3 A. He will not always go out and get an
4 agreed charge.

5 Q. Would you be surprised if I tell you, and
6 I am sure the gentleman would not mind being quoted,
7 what a very high officer of the Canadian Pacific Railway
8 told me after they had succeeded in getting rid of the
9 one and one-third rule as far as its application to
10 agreed charges was concerned, he told me there are no
11 more transcontinental competitive rates quoted -- if
12 they want low rates to the west coast, they will get
13 them on the basis of agreed charges and that is all.
14 That is a reasonable thing for the gentleman to say, is
15 it not? That was a question, was it not, Mr. Brazier?

16 MR. BRAZIER: I think he is trying to get
17 an answer for you, if you don't mind.

18 THE WITNESS: Not everybody can enter into
19 an agreed charge because he does not have the traffic,
20 he does not have the kind of traffic, and the right
21 kind of thing that the railway will put an agreed
22 charge in. An agreed charge cannot be extended to
23 everybody.

24 MR. FRAWLEY:

25 Q. You know, of course, that the technique
26 of the fixed charge also applies to the new regime,
27 the new world of agreed charge that we went into after
28 the one and one-third rule was made non-applicable;
29 you know that the technique of the fixed charge is
30 still in force. You know what I mean by that, Mr. Hughes?



1 A. Yes.

2 Q. I mean that there are provisions in the
3 Transport Act which enable other shippers other than
4 the original contracting parties to obtain just the same
5 charge, if they will comply with the same terms and
6 conditions. I am aware of that. If there is any
7 limitation of that -- well, it is there, it is
8 apparent -- it is because of that that I want you to
9 tell me these industries in British Columbia that are
10 now suffering because of the fact that there still is
11 this hollow, nominal operation of the one and one-third
12 rule.
13

14 A. Well, I say I cannot do it because it
15 is an impractical thing to do.

16 MR. BRAZIER: I would like to say at this
17 time, Mr. Chairman, of course, that Mr. Frawley has not
18 yet disclosed his hand, what his submission is going to
19 be to this Commission. It may be that he is going to
20 suggest that the one and one-third rule be applied to
21 agreed charges, as he did before the second Turgeon
22 Commission.

23 MR. SINCLAIR: Oh, he wouldn't do that.

24 MR. BRAZIER: We certainly want to point out
25 to the Commission at this time, since we are making the
26 first substantial submission of the provinces, that there
27 is danger in this rule. We think it is artificial, and,
28 if anything, it should be taken out of the freight rates
29 structure.

30 Certainly we are looking to the position that



1 may be taken by Alberta, which they have talked a
2 great deal about, that it should be also applied to
3 agreed charges, which would be of assistance to the
4 Province of British Columbia.

5 THE CHAIRMAN: I do not think anybody has
6 ever accused Mr. Frawley of being timid, and I do not
7 think he is being timid now. He will make his posi-
8 tion clear.

9 MR. FRAWLEY: If my friend will possess his
10 soul in patience, he will learn in due course what I
11 propose to do in so far as I am able to remove this
12 discrimination from the Canadian freight rates structure
13 in as far as it affects the province of Alberta.

14 Q. Mr. Hughes, could you look at page 61,
15 because there is something there that I think has got
16 to be straightened out a bit. At page 61 you have a
17 sentence there at the bottom of the page starting:

18 "Yes, these inland points ---"
19 and I suppose I can take them to be my cities of
20 Calgary and Edmonton.

21 "Yes, these inland points expect the
22 railways to give up their opportunities
23 to effectively compete at the competi-
24 tive points and the long-haul shipper
25 is deprived of low rates."

26 What do you mean by that? Has anybody in Alberta ever
27 suggested that anything should happen to the rates in
28 Vancouver, that Vancouver should pay any higher rates?

29 A. They might not have explicitly asked for
30



1 that, but, as I say, when the one and one-third rule
2 went into effect, quite a lot of rates went up and they
3 are still in effect, those higher rates are still in
4 effect. But even though Alberta may not have asked
5 for them, then this is certainly what has happened.

6 Q. But after all this is a Province of
7 British Columbia brief, it is not the Canadian Pacific
8 Railway brief, is it? To be perfectly frank, as I
9 read through it I was quite confused as to whether
10 this was Mr. Sinclair's case or Mr. Brazier's case.

11 MR. SINCLAIR: What section were you thinking
12 of?

13 THE WITNESS: We hope Mr. Sinclair thinks
14 so in the cross-examination.

15 MR. FRAWLEY: Q. Mr. Hughes, was it not
16 basic to our case that the Vancouver rate should remain
17 as it was, and then we should not pay more than one-
18 third more. Was not that basic to our case?

19 A. You may have been under a misconception
20 as to what would happen if the one and one-third rule
21 went in. What did in fact happen, you got a one and
22 one-third rule and at the same time our rates went up,
23 so you were not benefited at all because you got the
24 same rate as you had before.

25 Q. I am confining my cross-examination to the
26 spokesman for the Province of British Columbia, and I
27 simply put it to you that never at any time did we
28 expect Vancouver to be deprived of one cent of a rate
29 as a result of our advocacy of parity rates or something
30



1 more than parity.

2
3 A. Well, it was very nice of you to think
4 that, and we know you thought kindly of us, but what
5 has in fact happened, you have still got the same rate
6 and we have got a higher rate as a result.

7 Q. That is as the result of the determina-
8 tion of the railways to not go along with the idea that
9 we should be freed from long and short haul discrimina-
10 tion.

11 I am simply wanting to put on record that
12 never at any time did we seek to interfere with the
13 rates which British Columbia was getting. In fact,
14 quite the contrary. We said that if there is a low
15 rate to Vancouver, we want that rate plus one-third.
16 We want the effect of the low rate to Vancouver to be
17 spread back over the intermediate territory, just as
18 it has done through the states of Washington and Idaho,
19 Utah, Oregon, California and the rest of the American
20 states.

21 I just wanted it to be made clear and I thought
22 this was the right time to do it. If the witness does
23 not agree with me on such an obvious thing as that, I
24 turn to the Commission and make the statement so that
25 there will be no possible question about it.

26 I only want to give you cases -- there are
27 many of them -- where you have now benefited through
28 the medium of agreed charges and you now have much
29 better rates. Perhaps I can put that to you.

30 Do you know, MR. Hughes, is it a fact that



1 through the medium of low agreed charges to the west
2 coast from eastern Canada, that you now enjoy much
3 lower rates than you did in 1951?
4

5 A. I do not agree that we do, Mr. Frawley.
6 Very often these agreed charges are exactly the same
7 rate as the old competitive rate was. Even though we
8 have an agreed charge in now, the agreed charge does
9 not mean to say it is going to be any lower. It is
10 very often just the same as it always was.

11 Q. Well, my understanding is that on iron
12 and steel plates, for example, you have had a rate of
13 129 in 1951, and I think you will find that on page 7
14 of Exhibit 15 in the Agreed Charges Royal Commission
15 case -- and you will find it in your Appendix A
16 because it is just a reprint -- you have a rate
17 of 129 from Groups A and B to Vancouver; is not that
18 right?

19 A. That is right, yes.

20 Q. And I put it to you that now in the year
21 1960, notwithstanding all of these increased costs,
22 wages, material, everything else, that Mr. Sinclair and
23 Mr. McDonald have been entertaining us with over the
24 years, you now enjoy a rate through an agreed charge
25 of \$1.20; is that not right?

26 MR. BRAZIER: Can you tell me, Mr. Frawley,
27 whether the minimum is the same? I have not got the
28 complete charge here.

29 MR. FRAWLEY: Well, there was a minimum in
30 1951 of 100,000.



1 MR. BRAZIER: Eighty thousand is included
2 in Appendix A.

3 MR. FRAWLEY: No, Appendix A, I am looking
4 at the original Exhibit 15, but Appendix A must be the
5 same. I do not know whether all the information is
6 there.

7 MR. BRAZIER: Page 69 shows groups A and B,
8 \$1.29, the minimum rate 80,000 pounds.

9 MR. FRAWLEY: I am looking at page 69, the
10 second item from the top, iron and steel plates from
11 groups A and B. This is from Hamilton and Algoma.

12 MR. BRAZIER: Eighty thousand pounds.

13 MR. FRAWLEY: Yes, 80,000 pounds.

14 MR. BRAZIER: I don't know what it is under
15 the agreed charge.

16 MR. FRAWLEY: Do you know what that means, Mr.
17 Brazier? That means that I will now offer -- and there
18 once again I am offering or filing a 12-page exhibit
19 that I am going to have to go and reproduce some place,
20 I have to do that at my own expense, I suppose, but I
21 will have to read for you, Mr. Brazier, what the original
22 entry was.

23 Please do not understand that I think that
24 this was a specially prepared exhibit or appendix --
25 I would not think that for a moment -- but the full
26 story of iron and steel bars and rods is this. On iron
27 and steel bars and rods from groups A and B the rate
28 is 129.



1
2 MR. BRAZIER: That is not the item we are
3 talking about. We are talking about iron and steel
4 plate.

5 MR. FRAWLEY: Iron and steel bars and rod.

6 MR. BRAZIER: That is a different item, you
7 see.

8 MR. SINCLAIR: Page 68, the last one.

9 MR. BRAZIER: Yes, on iron and steel bars
10 and rods there was a minimum of 100,000 lbs. You were
11 talking about iron and steel plate.

12 MR. FRAWLEY: Iron and steel bars and rods.
13 Now, with the kind help of my friend, Mr. Sinclair, I
14 have the item on page 68 of your Part 1, and it is the
15 last item on page 68, and it has a rate of 129 from
16 groups A and B, and the minimum weight is 100,000 lbs.

17 MR. BRAZIER: That is correct.

18 MR. FRAWLEY: And I put it to you that you
19 are now getting that same material for \$1.20, which is
20 9 cents less. I have not got the agreed charge --
21 yes, I think I can probably give you that from some-
22 thing else. Yes, you will find that it is 100,000 lbs.,
23 Mr. Brazier and Mr. Hughes -- I do not think there is
24 any doubt about that.

25 MR. BRAZIER: If you would give us the
26 number of the agreed charge, we can check it.

27 MR. FRAWLEY: The number of the agreed
28 charge is 71 and 73. However, I apologize for taking
29 up so much time on this digression. I simply put it
30 to you that through the medium of the agreed charge you



1 are now much better off than you were back in 1951,
2 notwithstanding the rate increase. I have just one
3 more for you, and I will leave that. Calcium carbide;
4 the rate in 1951 was \$2.12, and in 1960, through agreed
5 charge No. 115, you are paying \$1.59. I put it to
6 you that that sort of thing runs all through these,
7 and that it is what you would expect.

8 THE WITNESS: I do not agree with you, Mr.
9 Frawley.
10

11 MR. FRAWLEY: Q. You do not agree that
12 calcium carbide ---

13 A. I do not agree that it runs through the
14 whole lot. You are taking out one or two odd ones.

15 Q. You are going to show me what industry
16 has been disadvantaged today through the application of
17 the one and one-third rule. Whether or not British
18 Columbia has been advantaged through the application
19 of agreed charges, which I am told now reach 1,000;
20 the railways have reached the 1,000 mark -- you will
21 find that a substantial portion of those are on trans-
22 continental routes, and you are telling me that you
23 have not been advantaged by the agreed charge?

24 A. The overall situation, I think, is shown
25 in Table XI-A. You are picking out one or two in-
26 stances, but I think the whole picture is shown in
27 Table XI-A, where the agreed charges for British
28 Columbia are much higher than those for Alberta --
29 on competitive rates, even.

30 Q. What is this, now? What are you drawing



1 my attention to now?

2
3 A. Table XI-A. I think that gives us the
4 situation where British Columbia has \$34 for the agreed
5 charges, and Alberta \$19.60.

6 Q. Now, of course, Mr. Hughes, that \$34
7 would cover a great many agreed charges moving from
8 the West Coast -- moving from groups A and B out of
9 Vancouver, and transcontinental agreed charges?

10 A. If it does show anything, it shows that
11 the rates are very high, does it not?

12 Q. Yes, what it shows -- you are making a
13 comparison, and you are showing that my agreed charges
14 average out at \$19.60, and yours average out at \$34.01.
15 That means that I have got very few long-haul agreed
16 charges compared to what you have. You have got to
17 pay something for transportation, I suppose. That is
18 what it shows, does it not, Mr. Hughes? It shows
19 that you have a vast amount of stuff moving out every
20 day under low agreed charges from the Coast -- and I
21 say "low" as compared with the commodity rates which
22 have been displaced. That is what this \$34 is. You
23 do not expect to get from Toronto to Vancouver at the
24 same rate as you would expect to get from Lethbridge
25 to Edmonton, do you?

26 A. No.

27 Q. And I put it to you that all that \$19.60
28 means is that I am not anywhere in your world when it
29 comes to transcontinental agreed charges. It proves
30 that point. Of course, there is a lot of intra-Alberta



1 traffic, and traffic between Saskatchewan and Alberta,
2 moving on agreed charges, and there are also agreed
3 charges between British Columbia and Alberta, and with
4 respect to those, of course, the rate per hundredweight
5 would be down. Do you want to make any more out of
6 that?
7

8 MR. BRAZIER: We will not put a number on
9 them, but there are some in groups A and B from Alberta,
10 too. They are not all between Alberta and Saskatchewan,
11 and Alberta and British Columbia.

12 MR. FRAWLEY: Yes, there are some, and
13 the Trans-Canada Highway will probably make more. I
14 suppose Alberta will have to wait for that day before
15 it gets a fair rate structure, and I will put it to
16 the witness -- well, I have put it to the witness quite
17 sufficiently.

18 Q. Mr. Hughes, I am going to be bold
19 enough to ask you a couple of questions with respect
20 to your Part 2. I want to know just where you are
21 going, and I want a little education. I would like
22 you to compare the rates on sand and gravel, on the
23 one hand, with the rates on boots and shoes, on the
24 other. The boots and shoes, I take it -- and I am
25 only using them illustratively, and thanks to the
26 attitude of the Canadian Pacific Railway and the
27 Canadian National, we have not got a burden study today
28 so that we can check, but I am putting it to you that
29 the boots and shoes would probably move at -- what?
30 Would it be one and a half or two times the fully



1 distributed costs, would you say?

2 A. I could not say at all, Mr. Frawley.

3 Q. I know you cannot say, but you have
4 given this thing some thought, and being the student
5 that you are of these matters, and having been examining
6 this rate structure for some time, would you not say
7 that boots and shoes are paying more than their fully
8 distributed costs?

9 A. How would I know? The rate may be
10 high, but the costs may also be high. Until I know
11 something about the costs, I could not say.

12 Q. Do we not have to simply look at the
13 basic philosophy behind this freight rate structure?
14 There is no doubt that differential pricing is practised
15 by the Canadian Railways in the Canadian freight rate
16 structure?

17 A. I do not think there is any doubt about
18 that.

19 Q. And is not a part of that, as some
20 economists call it, discrimination in the Canadian freight
21 rate structure? It is the same thing?

22 A. Differential charging and discrimination
23 -- I do not know if you are taking them as an economist's
24 term or as a lawyer's term.

25 Q. Now, I am foolish enough to be trying to
26 use the term of the economists, namely, that discrimina-
27 tion in the freight rate structure means differential
28 pricing. For the purpose of my question, they mean
29 the same thing.
30



1
2 A. Differential pricing?

3 Q. Is not differential pricing practised
4 so that the higher rated commodities will provide a
5 margin over overall distributed costs, and so that
6 some of the lowervalued commodities can move more freely?
7 Is that not what the railways say is behind differential
8 pricing?

9 A. The railways may say that, but there is
10 a lot of traffic with high rates that does not do that,
11 because the costs are so high. Again, I have to come
12 back to your Appendix A which you introduced when you
13 were cross-examining Dr. Edwards. You will see the
14 basic commodities such as coal and fertilizers and
15 things like that that do no subsidizing of the burden,
16 but so far as this particular situation is concerned,
17 I do not know.

18 Q. I am putting to you that I can see the
19 relationship between sand and gravel, being a low-
20 valued commodity, and a volume commodity -- I can see
21 that the relationship between sand and gravel and boots
22 and shoes or drugs and chemicals, or some of those
23 other high-valued commodities, has a relationship to
24 cross subsidies or intra-subsidization -- is not that
25 so?

26 A. It all depends on the relationship of
27 the revenues to the cost, and I cannot tell at all
28 offhand until I know what the relative costs are and
29 what the relative revenues are.

30 Q. So you say you do not know whether boots



1 and shoes today are being carried over the same rep-
2 resentative distances, say, from Eastern Canada to
3 Regina or Saskatoon -- you do not know whether they
4 are moving at fully distributed costs, less than full
5 costs, or several multiples of full costs; you just
6 do not know?

7
8 A. I know that if boots and shoes were
9 subsidizing the sand and gravel you are talking about,
10 then a lot of boots and shoes would be going by truck
11 and they would not be on the railway at all -- that
12 is, if they were carrying not only their own costs
13 but those of the sand and gravel as well.

14 Q. Very well, so much for boots and shoes.
15 Would you venture an opinion? Without the benefit of
16 a study which would show the relationship of revenue
17 to cost of sand and gravel, would you say that sand
18 and gravel was moving at fully distributed costs?

19 A. No, I would not say it was moving at
20 fully distributed cost.

21 Q. Would you say it was moving at something
22 over out-of-pocket cost?

23 A. No, I would not say it was moving at less
24 than out-of-pocket cost. It does in the United States,
25 but I do not know about Canada.

26 Q. I am talking about Canada. Would you
27 say that sand and gravel is -- well, I have put the
28 question to you, and you do not say that sand and
29 gravel is moving at less than out-of-pocket costs in
30 Canada.



1 A. I do not say that; I do not know, but
2 I know that in the United States sand and gravel moves
3 at less than out-of-pocket cost.
4

5 Q. But have we not got to assume that it
6 is not moving at less than out-of-pocket cost, other-
7 wise it could be made the subject of an investigation
8 under Section 334?
9

10 A. Yes, if it was a competitive rate it
11 could be under Section 334, but as far as I know you
12 cannot complain about a class rate being less than
13 out-of-pocket cost.
14

15 Q. That is not my understanding. I put
16 it to you, Mr. Hughes, that if I had reason to believe
17 that sand and gravel, or anything else, was moving today
18 at less than out-of-pocket cost, plus something -- and
19 that word "something" is an important word -- then it
20 is not a compensatory rate, and I can move to have it
21 disallowed?
22

23 A. You may be right. I am not a lawyer, and
24 I do not know.
25

26 Q. It is not so much a matter of being a
27 lawyer, but it is a matter of knowing what the Board's
28 rulings, and what the Act, say about rates which are
29 not compensatory.
30

31 A. I thought you were talking about com-
32 petitive rates.
33

34 Q. No, any rate at all that is suspected of
35 moving traffic at less than out-of-pocket cost. I put
36 it to you that it can be the subject of a complaint,
37



1 and if that were established by the Board the Board
2 would then disallow it.

3 A. Can you tell me which section that is in,
4 because I do not know it?

5 Q. I will just refer you to your very well-
6 informed counsel, and I think he will bear me out.
7 Whether it is there word for word in the statute, or
8 whether it has been drawn up as a result of the
9 jurisprudence of the Board, I am not prepared to say.
10 However, passing from that, from your understanding of
11 the Railway Act and the Board's directions, you do not
12 know whether sand and gravel is moving at out-of-pocket
13 cost plus something more?

14 A. That is right, I do not know.

15 THE CHAIRMAN: We will adjourn now until
16 two o'clock, and we will resume in the courtroom of the
17 Board of Transport Commissioners.

18 MR. FRAWLEY: Not that it matters very much,
19 sir, but it would certainly accommodate me if you would
20 allow me something like five minutes more.

21 THE CHAIRMAN: Very well.

22 MR. FRAWLEY: If I find that I have asked
23 something that is going to produce a long answer, then
24 I will cry "Kamarad", and we will adjourn.

25 Q. What would you do, Mr. Hughes, in the
26 next scheme you are proposing -- the cost of service
27 scheme -- what would you do with this cross-subsidization,
28 if there be one as between sand and gravel and boots and
29 shoes?
30



1
2 A. I did not say there was any cross-
3 subsidization.

4 Q. Perhaps you did not, but what would be
5 the controlling cost factors for sand and gravel?

6 A. Out-of-pocket costs would form the
7 minimum rate, and over that, if it was competitive
8 traffic, the railways could put the rate where they
9 wanted.

10 Q. And if it was not competitive traffic?

11 A. Well, subject to the maximum, which is
12 fully distributed cost -- between these two the railways
13 could put the rate wherever they wanted.

14 Q. The bottom would be the out-of-pocket
15 cost and the top would be the fully distributed cost,
16 on sand and gravel?

17 A. Yes, if it was captive traffic.

18 Q. Let us assume, then, that it is.
19 I do not know whether I have selected a good one, or
20 not. Let us assume that sand and gravel is a captive
21 traffic.

22 A. Yes. I assume it is captive traffic,
23 and the maximum is the fully distributed cost.

24 Q. And if it were not captive traffic,
25 the maximum rate would be what?

26 A. There would be no maximum rate.

27 Q. There would be no maximum rate?

28 A. Yes.

29 Q. The railways could charge whatever they
30 wanted to?



1 A. Yes, and the competition is the ceiling.

2 Q. Now, what would be the cost factors
3 entering into the pricing of the boots and shoes?

4 A. The cost factors entering there would
5 be the out-of-pocket costs, and the pricing factor
6 would be whatever the traffic could bear.

7 MR. FRAWLEY: Mr. Chairman, I will accept
8 your invitation to adjourn.

9
10 --- Luncheon adjournment.



1
2 ---On resuming at 2.00 p.m. in the Court Room, Board
3 of Transport Commissioners Office.

4 THE CHAIRMAN: Order, please. Mr.
5 Frawley?

6
7 CROSS-EXAMINATION BY MR. FRAWLEY (Cont'd):

8 Q. Mr. Hughes, at page 68 of your report
9 you are quoting some remarks of Mr. Cronkite,
10 counsel for the Government of Saskatchewan, in the
11 second Turgeon Commission.

12 A. What page again?

13 Q. Page 63 of your Part 1, and I was
14 just wondering whether you were reading those remarks
15 as being opposed to the proposition that I had put on
16 behalf of Alberta to the second Turgeon Commission with
17 respect to the desirability of having the one and one-
18 third rule apply to agreed charges?

19 A. Is the question: Are not these remarks
20 opposed to the one and one-third rule?

21 Q. Yes. I was asking whether you were
22 quoting Mr. Cronkite to indicate that he was opposing
23 my proposition to the Royal Commission?

24 A. Well, do you mind if I just have a
25 look at it?

26 Q. Yes.

27 A. I haven't got very far down it, Mr.
28 Frawley, but I think it is quite plain that what he
29 says --

30 "That the application of the one and
one-third rule to agreed charges would



1
2 adversely affect British Columbia with-
3 out any compensating advantage to
4 Alberta."

5 And from that and from the other remarks I assume that
6 what he had in mind was that he was opposed to the
7 extension of the one and one-third rule to agreed
8 charges.

9 Q. Yes. I am sure you certainly want the
10 record straight, and you will find, if you look at
11 the report of the Royal Commission on Agreed Charges,
12 the matter was gone into very fully, starting at the
13 bottom of page 42, extending all through page 43 and
14 page 44. I certainly don't want to read it all, but
15 the Commissioner, after citing some, at least, of
16 what you have quoted on page 63 of your brief, went
17 on to say at page 42:

18 "I asked counsel for Saskatchewan
19 to prepare a draft amendment incorporating
20 the views of Saskatchewan and a proposal
21 for a new subsection 10a to follow the
22 present subsection 10 of section 32 of
23 the Transport Act was submitted . . ."

24 And then follows Dean Cronkite's proposed draft
25 amendment. Then the Commissioner goes on at page
26 43 to refer to what I said, and without reading all of
27 that and turning to page 44, I will just read what
28 the Commissioner said, about quarter of the way down
29 page 44:

30 "The Commissioner: I understand



1 you now, Mr. Frawley. You say that
2
3 what Dean Cronkite expressed is what
4
5 you always intended.

6 "Mr. Frawley: That is right,
7
8 my lord. That is his subsections
9
10 (a) and (b) of 10a."

11 I am only quoting that because I want to put people
12 in the right camp, and the fact is, and I am putting
13 it to you, that counsel for Saskatchewan supported,
14 counsel for Alberta agreed, on the nature of the
15 amendment which we would like to have to the Transport
16 Act which would have made agreed charges subject to the
17 one and one-third rule. I am sure you don't mind
18 that I should put the record right in that regard.

19 Now, Mr. Hughes, I would like to show you
20 a couple of rate statements. Here is a statement
21 comparing representative agreed charge freight rates
22 from eastern Canada to Vancouver, British Columbia,
23 and to Lethbridge, Alberta, on the same commodities
24 as of January, 1960, and I would like to have that
25 as the next exhibit, whatever that number is.

26 MR. CUMMING: I think it will be 146, Mr.
27 Chairman.

28 ---EXHIBIT NO. 146: Statement comparing repre-
29 sentative agreed charge
30 freight rates from eastern
 Canada to Vancouver, British
 Columbia, and to Lethbridge,
 Alberta.

 MR. SINCLAIR: Is it my friend's position
that all of this traffic does, in fact, move to



1 Lethbridge, Alberta? -- bottle caps, for instance?

2
3 MR. FRAWLEY: I am told there is a brewery;
4 it has been there for many, many years, although it
5 has recently changed ownership.

6 Q. Now, I would like to show you a further
7 rate statement, which is entitled "Statement comparing
8 representative agreed charge freight rates from
9 eastern Canada to Vancouver, British Columbia, with
10 rates to Winnipeg, Manitoba, on the same commodities",
11 and that would be Exhibit 147.

12 ---EXHIBIT NO. 147: Statement comparing repre-
13 sentative agreed charge
14 freight rates from eastern
15 Canada to Vancouver, B.C.,
16 with rates to Winnipeg,
17 Manitoba, on the same com-
18 modities.

19 MR. FRAWLEY: Q. Now, Mr. Hughes, those
20 statements, I may say, are statements which go along
21 with Exhibits 81 and 89. Exhibit 81 is a statement
22 of the same kind, comparing the agreed charges to
23 Vancouver with the rates to Calgary and Edmonton on
24 the same commodities as of December 29th, 1959.
25 That is Exhibit 81. Exhibit 89 is a similar state-
26 ment which compares agreed charges to Vancouver with
27 the rates to Regina, Saskatchewan, and now with
28 Exhibits 81, 89, 146 and 147 the Commission has a
29 series of statements which compares the agreed
30 charges to Vancouver with rates to the intermediate
points.

A. May I ask a question, Mr. Frawley?



1 You say it is representative agreed charges, and I
2 wonder what the total number of agreed charges was
3 and just how representative they are.
4

5 Q. By way of answering your question -- I
6 don't really know. That might be an interesting
7 analysis to take off. I could file -- and that is
8 not a threat, that is just a promise -- I have a state-
9 ment which runs to forty pages covering every agreed
10 charge, and I was told this morning on reliable author-
11 ity that the last filed number is now something over
12 1,000, and it would be interesting to know the number
13 of transcontinental agreed charges in that 1,000. It
14 is not a difficult thing to do. I think I might ask
15 my office in Edmonton to make up such a statement,
16 just to be informative about it.

17 What I would like to see is the statement
18 which indicates the growth of the number of agreed
19 charges that have gone into the transcontinental
20 tariffs since the railways found the anomaly in the le-
21 gislation which permitted them to free agreed charges
22 from this rule which was some approach to the United
23 States situation, namely, parity of rates, where the
24 coast rate is controlling and cannot be exceeded at
25 any intermediate points, and the Commission knows that
26 that means that the rate at Spokane cannot be more
27 than the rate at Seattle, and so on.

28 Now, what I want to say about those exhibits,
29 though, you being the ardent advocate that you are
30 against not only the reintroduction of the one and



1
2 one-third rule so that it would apply to agreed
3 charges but even concerned with the application of the
4 rule to the transcontinental open published rates,
5 how would you say, then, looking at these exhibits
6 that I have shown you today, 146, that there is
7 nothing extraordinary in charging a rate to Lethbridge
8 on boards and sheets from Port Union, Ontario, which
9 is 139 per cent of the rate to Vancouver, and that
10 there is nothing wrong about charging Lethbridge a
11 rate on canned goods from eastern Canada which runs
12 out at 111.1 per cent of the rate to Vancouver?

13 THE CHAIRMAN: We understand you claim
14 it is an inequity.

15 MR. FRAWLEY: I certainly claim this is a
16 vicious discrimination against the whole intermediate
17 territory extending from the Rocky Mountains back
18 to the lakehead, by reason of the geography and
19 economy falling most heavily on the province of
20 Alberta and falling on Saskatchewan as well.

21 Q. But coming to a question, Mr. Hughes --
22 and I am not deliberately wishing to open up a long
23 statement, but let's have it if you must -- you
24 find nothing wrong with the situation disclosed in
25 Exhibit 146?

26 A. You mean I don't think it is iniquitous?

27 Q. Nothing morally wrong about it, nothing
28 wrong in the sense of violating the Criminal Code,
29 just that it is a discrimination?

30 MR. SINCLAIR: The words don't mean the



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Hughes, cr-ex
(Frawley)

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1
2 same thing, with all due respect.

3 THE WITNESS: It is differential pricing,
4 as I mentioned this morning, but it is not an inequity.
5
6
7
8
9

10 (Page 13764 follows)
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12
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1
2 Q. I see, it is just differential pricing.

3 A. Yes, and the proper method to do
4 something about this, it would seem to me, for you to
5 accept a cost of service principle.

6 Q. I want to ask you something about that.
7 Now, the same thing goes for Exhibit 147, which seems
8 to me to be just an extraordinary situation with the
9 Canadian freight rate structure, having in mind the
10 distance between Winnipeg and Vancouver and having in
11 mind that the origins are all origins in Ontario and
12 Quebec, I put it to you again, looking at all of
13 them, when you find that cast iron pipe for pressurized
14 water systems, the last item on the Winnipeg statement
15 147, moving from Toronto and Trois Rivières
16 will go to Vancouver for 1.10 and 1.18 under agreed
17 charge No. 57; whereas Winnipeg -- not taking now
18 Edmonton or Calgary, but Winnipeg -- will pay 169 or
19 153 per cent of the rate to Vancouver.

20 MR. BRAZIER: I think, Mr. Frawley, you
21 should point out too there is a very considerable
22 difference in the minimum weights. For this one it
23 is 80,000 lbs., the one to Vancouver; whereas the
24 one to Winnipeg is only a 36,000 minimum car.

25 MR. FRAWLEY: Mr. Chairman, my friend,
26 Mr. Brazier, has mentioned the minimum charge now for
27 the second time today as if that itself was a justi-
28 fication.

29 I certainly have no authority to speak for
30 the Winnipeg receiver, but I feel certain that if the



1 Winnipeg receiver was offered a rate of 1.10, he would
2 say: "Give it to me in the same minimum weights.
3 We accept the same minimum car weights as you are
4 giving to the man in Vancouver who gets it for \$1.10."
5 That has always been the answer that we have in Alberta.
6 We say we will accept the same minimum, as we must. As
7 a matter of fact, that was the point that was discussed
8 by Chief Justice Turgeon in the agreed charge case,
9 and we made it very clear.

10 But, of course, if we won't be content with
11 the same minimum and if the minimum is 100,000 lbs.
12 on cast iron pipe to obtain the rate of \$1.10 as
13 against our rate in Edmonton on the same cast iron
14 pipe, on our rate of 2.54 to Edmonton and \$1.10 to
15 Vancouver: I have not come to sum up the case for
16 British Columbia but it is always expounding this
17 exhibit and this exhibit I have just quoted from, the
18 2.54 on this cast iron pipe to Alberta points against
19 \$1.10 to Vancouver, it is already in operation.--
20 Exhibit 81 filed some time ago.

21 What we say to you is that it is a rank
22 discrimination against Alberta, and if we are getting
23 a more favourable minimum loading, minimum weight,
24 then of course we will sacrifice that and we will
25 accept the larger loading.

26 All right, so much for the situation in
27 Winnipeg and in Lethbridge.

28 MR. BRAZIER: Mr. Chairman, Mr. Frawley
29 is making quite a long statement about this, and I
30



1 would like to point out, since there has been no formal
2 witness proving these particular exhibits, and taking
3 the one back to Exhibit 147, cast iron pipe: I would
4 point out to the Commission that on the shipment to
5 Vancouver at the \$1.18 rate, the railway receives
6 \$944 in revenue on that shipment, whereas to Winnipeg
7 on the 36,000 they receive \$544 in revenue.

8 MR. FRAWLEY: My friend is saying exactly
9 what he said four minutes ago, that that is because of
10 the minimum weight, but you apply 80,000 minimum on
11 Winnipeg on a Winnipeg shipment and you are charging
12 now 169, and how much are you getting?

13 MR. SINCLAIR: Of course, Mr. Chairman,
14 this has been argued. There was a special Royal
15 Commission on it. With great respect to my friend,
16 Mr. Frawley, I think it may well be that he will wish
17 to argue this at some other time, but there are a
18 number of other reasons for these matters that have
19 been stated before and can be stated again. I suggest
20 that this is not the time to do it, because we
21 do not accept Mr. Frawley's statement as the fact.

22 It was noticeable, sir, that, as counsel
23 sometimes has to do -- and I know Mr. Frawley has
24 great skill in that regard -- he turned his back on
25 your question, bowed to you and kept on going. He has
26 not answered you.

27 MR. FRAWLEY: No, no, I am not skilful in
28 that at all.

29 THE CHAIRMAN: Anyway you claim this is one
30



1 of the inequities that we have to inquire into.

2
3 MR. FRAWLEY: Which under your terms of
4 reference you are bound to inquire into and report
5 to the Governor General-in-Council. There is not
6 any question about that at all.

7 MR. SINCLAIR: With great respect, Mr.
8 Chairman, in answer to your question, he said it was
9 a discrimination, and not an inequity.

10 MR. FRAWLEY: Well, I called it long and
11 short-haul discrimination.

12 MR. SINCLAIR: It is not an inequity.

13 MR. FRAWLEY: We certainly will have a course
14 in semantics. That is a separate endeavour to
15 straighten out the language. It is discrimination,
16 it is inequity, it is wrong. Now, what does it
17 matter about the adjectives or the words?

18 MR. SINCLAIR: It just happens that
19 counsel tells this Commission what it is to inquire
20 into.

21 MR. FRAWLEY: They are to inquire into
22 inequities. It is the most obvious inequity in the
23 world to charge Alberta 2.54 on a shipment of cast
24 iron pipe and Vancouver \$1.10.

25 MR. SINCLAIR: Then, of course, it would
26 be up to Vancouver to call such evidence as is necessary
27 to prove it.

28 MR. FRAWLEY: Are you sort of urging me to
29 do it?

30 MR. SINCLAIR: I certainly am. You have



1 tried before and have not succeeded, and I suggest the
2 same thing will happen.

3 MR. FRAWLEY: Do you think I am going to
4 run away from calling evidence? Just bide your
5 time to September and we will see about it.

6 MR. SINCLAIR: Then we look forward to it.

7 MR. FRAWLEY: Q. Mr. Hughes, that brings
8 me to the end of my cross-examination, because I wanted
9 to take you and you have already taken me there, to
10 page 64, and we will use these exhibits as examples
11 of what you are talking about. On page 64:

12 "In conclusion, it is submitted that

13 "Section 337 of the Railway Act be repealed

14 "in entirety and thereafter railway rates

15 "to intermediate territory follow the 'cost

16 "of service' principle expounded else-

17 "where in this brief."

18 "Elsewhere" meaning in the yellow book, Part 2.

19 A. Yes.

20 Q. Now, I want to see how much benefaction
21 there is in this, Mr. Hughes, and would you just tell
22 me then, looking at my Exhibits 81, 89, 146 and 147 --
23 you only have 147 and 146 there. I will show you
24 my copy of Exhibit 81, which is the comparison
25 affecting Calgary and Edmonton, but they are all of
26 the same piece. I don't suppose you are interested
27 in the particular examples.

28 THE CHAIRMAN: The same principle is
29 involved.
30



1 MR. FRAWLEY: Yes, the same principle.

2 Q. Now, will you tell me what we are to
3 look forward to in so far as your scheme is concerned?
4 I am quite serious about that, Mr. Hughes, and I
5 really would like to know what you would have by way
6 of hope to us in that regard.

7 A. If the costs were less to intermediate
8 territory than to Vancouver, then there is a very
9 good chance that the rates to intermediate territory
10 would be reduced. If you can prove that this is
11 captive traffic, if you go along to the Board and this
12 is captive, and you say you have no competition, and
13 if you go to the Board, well, the rates would be
14 reduced to fully allocated costs.

15 Q. First of all, on the question of costs,
16 there would not be any doubt about it at all, if you
17 have two cars in a train with cast iron pipe, one
18 destined to Vancouver and the other car next to it
19 destined to Calgary, and when the train arrived at
20 Calgary one car is dropped off and it then took the
21 other car to Vancouver: there is not any question
22 that it costs more to deliver the car to Vancouver
23 than it did to deliver the car to Calgary, that more
24 or less necessarily follows.

25 A. That follows, yes.

26 Q. Now, that being so, you say that we
27 should not have to pay as much as Vancouver on that
28 basis?
29

30 A. No, probably you would find that our



1 rates were higher than yours on the cost of service
2 basis. You don't know until we look at the costs.

3 Q. I see. Does it depend now on the
4 kind of rate, where we find it in the tariffs, whether
5 or not we would have our car at Calgary dropped off at
6 a lesser rate than the car that went on to Vancouver?
7

8 A. Well, it would really depend on the
9 type of traffic it was. It would depend on the costs.
10 That would be all. It would depend on the route it
11 followed and it would seem to me, if that were the
12 case, you would have lower costs than taking the same
13 car to Vancouver.

14 Q. You would have lower costs.

15 A. If you had lower costs, taking the
16 cars on to Vancouver, then you would get a lower rate
17 if it was captive traffic.

18 Q. Wait, you have two thoughts in there.
19 If the cost of moving the car, just the out-of-pocket
20 costs with a share of the overhead distributed
21 properly.

22 A. Yes.

23 Q. According to some formula, in every case
24 of the kind I was citing to you that goes moving from
25 the same origin, passing over the same line, one
26 destined to Vancouver and one destined to Calgary, you
27 would have a lower cost for the car that was dropped
28 off at Calgary in each and every case, wouldn't you?

29 A. I should imagine so, but I am not a
30 railway cost expert.



1 Q. Well, you have got 700 miles.

2 A. It seems sensible.

3 Q. That has to be paid for.

4 A. It seems common sense to me it would
5 be less cost.

6 Q. Just assume for the sake of my next
7 question, there is a less cost. Now, if it were the
8 ordinary class rate, let us say, in each case, then
9 you would expect that our rate would be lower on a
10 cost basis than the Vancouver rate.

11 A. Yes.

12 MR. BRAZIER: I think that is the situation
13 today, is it not, that class rates are certainly
14 lower than the Vancouver class rates.

15 MR. FRAWLEY: That is right.

16 Q. Even today, as Mr. Brazier points out,
17 the railways when the distance factor is allowed to
18 apply, where the distance factor is allowed to apply,
19 then Vancouver pays more than Calgary because the
20 distance is more than 700 miles more.

21 A. This applies to non-competitive rates.
22 It also applies to competitive rates, but Vancouver
23 rates are higher than they are to Calgary.

24 Q. I was going to work them class by class.
25 We have disposed of class rates. Would it be reasonable
26 to expect that the rate to Calgary would be less than
27 the rate to Vancouver and, as Mr. Brazier points out,
28 that is the situation today.

29 Going to the commodity rates, to the special
30



1
2 commodity rates -- and there are some of them -- what
3 would you expect to find with regard to that, with
4 the cost again being less?

5 A. Let us take some specific instances
6 here. Manufacturing and miscellaneous in 1957 out of
7 the waybill study, commodity non-competitive, and we
8 are talking about the trans-continental traffic,
9 Ontario to Alberta -- 48.20 per ton, Ontario to B.C.
10 \$52.6.

11 Q. Those are the rates ---

12 A. These are the charges per ton.

13 Q. Charges per ton. Wherever there are
14 rates then, we can expect to pay less than Vancouver?

15 A. Yes, and in these figures you get the
16 bridge subsidy, don't forget, and we do not get it at
17 all -- yes, we do get it on that. We both get the
18 bridge subsidy on that, and the competitive we do
19 not get the bridge subsidy.

20 Q. That is the situation now with regard
21 to the class rates and the non-competitive commodity
22 rates that you have described.

23 A. Yes.

24 Q. Now, with reference to the agreed
25 charges, and assuming again that the car moves from
26 the same origin, one car and the same train, two
27 cars and the same train, and one is dropped off at
28 Calgary and the other goes on to Vancouver, regardless
29 of what the present rate is, you would expect that
30 the cost of moving the car to Vancouver would be greater



1 than moving the car to Calgary.

2 A. I should imagine so.

3 Q. What would be the effect if your prin-
4 ciple were adopted, what would be the effect of that
5 rate-wise?

6 A. It depends on the nature of the traffic.
7 Is it going to be captive traffic? What are you
8 specifying?

9 Q. Well, if we have that admitted difference
10 in cost, and just let us assume there is an appreciable
11 difference in cost, in fact I put it to you the whole
12 cost of moving the car 645 miles from Calgary to
13 Vancouver -- but assume it is an appreciable difference
14 in cost in favour of Calgary: under what circumstances
15 would that fail to react to Calgary's benefit under
16 your system?

17 A. If it was captive traffic you would
18 get a lower rate than we would.

19 Q. Yes, and if it was not captive traffic?

20 A. Then the out-of-pocket costs would be
21 the minimum and there would be no maximum.
22
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1
2 Q. That would be sort of unregulated?

3 The railway would be permitted, notwithstanding the
4 difference in the cost, to charge Calgary more than
5 Vancouver?

6 A. Well, the situation is no different now.
7 You are talking about agreed charges. There is a
8 classification rate which is much higher.

9 Q. I quite agree with what you say about
10 what the situation is today, but I was rather hopeful
11 when I read this paragraph of yours. Are you now
12 telling me that, notwithstanding what you said there,
13 I can't take much comfort out of that paragraph in so
14 far as agreed charges are concerned? ---

15 MR. BRAZIER: I am somewhat confused myself,
16 and possibly the witness is, too, as to whether Mr.
17 Frawley is now putting to him a case where there is
18 an agreed charge to Vancouver as against a commodity
19 rate to Calgary; or is he putting a case where there
20 are agreed charges in both cases?

21 MR. FRAWLEY: O. I will put both to him.

22 Q. If you have an agreed charge to Vancouver
23 and a special commodity rate to Calgary -- in some
24 instances, perhaps, one double the other . . .

25 A. A non-competitive commodity rate into
26 Calgary?

27 Q. Yes.

28 A. Well, then, the ceiling is for the fully
29 distributed cost; there is no ceiling on the agreed
30 charge to Vancouver.



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Q. No ceiling?

A. If it is competitive there is no ceiling.

COMMISSIONER MANN: Are you, Mr. Hughes, automatically equating non-competitive rates with captive traffic?

THE WITNESS: Yes. If it is non-competitive there is no competition and it wouldn't go into the competitive class; but it needn't necessarily follow.

COMMISSIONER MANN: You are, then, saying that wherever I find a class rate or a non-competitive commodity rate in the tariff today the designation by rate determines whether or not the traffic is competitive? You have no other criteria?

THE WITNESS: Initially, we did that for administrative convenience. I don't think you would be too far out.

COMMISSIONER MANN: And you do the weeding out after?

THE WITNESS: Yes; there are some classes of rates, no doubt, that are competitive, but I think most of these are in the LCL classes and not touching the carload. But I can't imagine many carload rates in the classification which are actually moving traffic.

MR. FRAWLEY: Q. Perhaps we can have an example. I am trying to have regard to Mr. Brazier's remark which is probably -- I shouldn't say "probably" -- which is a sensible one, that we should compare like to like as much as we can.

Take the case of canned goods. Now, we have



1
2 an agreed charge to Vancouver, an agreed charge to
3 Calgary and Edmonton and an agreed charge to Leth-
4 bridge; that is one agreed charge taking in a lot of
5 territory. You have the railways hauling canned goods
6 to Vancouver, and I am reading from page 3 of your
7 statement, Exhibit 81. You have the railways hauling
8 canned goods from the eastern rate groups to Vancouver
9 for \$1.80, with a 60,000-pound minimum -- so there
10 would be no objection on that score -- and you have the
11 railways hauling canned goods from the same origins to
12 Calgary for \$2.30, and to Edmonton for \$2.41, with
13 the same 60,000-pound minimum.

14 That is, perhaps, as good an example as you
15 can get. They are both agreed charges, and both you
16 and I have agreed that, having in mind the very
17 reasonable supposition that those cars -- some for
18 Vancouver and some for Calgary and some for Edmonton
19 -- would leave the eastern origin in the same train,
20 and a car is dropped off at Calgary and it is charged
21 \$2.30, and the car ahead of it goes on to Vancouver
22 and is charged \$1.80; and let us assume that there
23 are additional costs, both variable and constant.

24 Now, then, how would that work out in the
25 rate scheme you are putting forward to the Board?
26 They are both agreed charges.

27 A. Well, of course, there is competition;
28 there is water competition in Vancouver, presumably;
29 there is competition in Calgary, Lethbridge and
30 Edmonton -- maybe truck competition. . . .



1
2 Q. I think if you explored it you would
3 find that it is not water competition in Vancouver.
4 They tell me it is American railway competition.

5 A. For canned goods?

6 Q. Yes, for canned goods; but, anyway,
7 whatever it is -- that is, perhaps, not important --
8 whatever it is . . . ?

9 A. The point is that probably nothing would
10 happen at all, because the competition is setting the
11 agreed charges, or the agreed charges wouldn't be
12 there; so I can't see anything happen to the rate.

13 Q. That is why I am anxious, because that
14 is just as good an example as any. So this proposi-
15 tion you have been putting up to the Commission for
16 a couple of days would leave the situation which you
17 have now as it is -- canned goods to Vancouver, \$1.80;
18 \$2.30 to Calgary and \$2.41 to Edmonton. You would
19 leave it just like that?

20 A. Well, I wouldn't do it. It would
21 depend on the railways -- what they would do; as long
22 as the rates were above out-of-pocket costs; but I
23 can't see the rates would go any higher than they are
24 now. The sky is not the limit; it is the competition
25 that is the limit.

26 Q. There is no question of letting cost
27 of service do something else to reduce the rates to
28 Edmonton and Calgary and reflect the fact that the
29 car has moved a further 760 miles, as is the case in
30 the Canadian National, and 641 miles in the case of



1 Canadian Pacific? There is nothing in your scheme
2 which would permit the cost of service principle to
3 operate so as to reduce the lower costed traffic, namely,
4 the traffic to Edmonton and Calgary?
5

6 A. Yes; with a cost of service scheme it
7 would. I think the railways will be losing all that
8 unremunerative traffic, branch line traffic, some way
9 freight train traffic to trucks, and the overall cost
10 position of the railways would benefit all rates.

11 COMMISSIONER MANN: You don't mean the cost
12 of service principle would bring this about?

13 THE WITNESS: No.

14 COMMISSIONER MANN: You can get unremunerative
15 services under your present system. This would depend
16 on the introduction of the cost of service principle?

17 THE WITNESS: It isn't dependent on it.

18 THE CHAIRMAN: It is a matter of bargaining?

19 THE WITNESS: Yes, I think so.

20 MR. FRAWLEY: Q. So it has to come about as a
21 matter of bargaining. I am simply putting it to you
22 that it costs less to move a car of canned goods from
23 Essex County to Calgary than it does to move it from
24 Essex County to Vancouver. I think that is a fair
25 assumption, isn't it?

26 A. Yes.

27 Q. All right. What I am putting to you
28 is that it is an inequity that Calgary should have to
29 pay \$2.30 for a car of canned goods and Vancouver
30 \$1.80.



1 Just indulge me for the moment. I am saying
2 it is an inequity. Whether it is or not I am anxious
3 to know whether anything that you have worked out --
4 and you have spent a great deal of time on this --
5 that is apparent -- whether you think there is anything,
6 if the intermediate territories adopted and supported
7 your proposal -- is there anything which you have
8 worked out which would give relief from the kind of
9 situation we find in connection with canned goods?

10
11 A. So far as agreed charges are concerned,
12 no. There may be other traffic that will get relief
13 because maybe the rate will come down to the fully
14 allocated cost; and these are probably above fully
15 allocated cost.

16 Q. You think that if the rate of \$2.30 is
17 above fully allocated cost then it has to come down
18 to fully allocated cost?

19 A. If it is a non-competitive rate, yes.

20 Q. But it is an agreed charge now?

21 A. Well, the competitive situation is
22 limited, as it is right here in the expenses you
23 have given me.

24 Q. Perhaps I am not understanding you.
25 We now pay \$2.30, and if it is more -- I don't know if
26 it is or not, again, not having a burden study -- but
27 if it is more than fully allocated cost then would
28 that rate come down under your proposal to fully
29 allocated cost?

30 A. It all depends on the level of the



1 competition. It doesn't automatically come down.
2
3 It depends on what the railways want to do in the
4 light of the competitive situation.

5 Q. It depends on what the railways want to
6 do?

7 A. Yes.

8 Q. Well, then, of course, I suggest that the
9 railways will not want to bring the rate down by so
10 much as a fraction of a cent.

11 A. I would not agree with you, because
12 a high rate doesn't necessarily bring in the most
13 revenue. They might find that a lower rate brings
14 in more revenue.

15 Q. Apart from these economic theories,
16 you say that because it is an agreed charge then the
17 ceiling of the fully allocated cost does not apply?

18 A. That is right.

19 Q. If it were something other than an
20 agreed charge -- and there are many of them here --
21 many, many, many of them -- then you say these rates of
22 ours to intermediate territories --that if you set
23 the rate to the cost of the agreed charge they would
24 then come down to fully distributed cost?

25 A. If it is competitive traffic and you went
26 along to the Board and proved that there was reasonable
27 competition.

28 Q. Again you have introduced a third element,
29 that it must be established that there is reasonable
30 competition existing?



1
2 A. Yes.

3 Q. And unless it were not then it wouldn't
4 be considered as competitive traffic and again your
5 full allocated cost wouldn't be applied?

6 A. Yes; the same as it is now with these
7 charges that we have. It is the competition that is
8 setting the limit.

9 Q. I am glad to know the extent of your
10 scheme in so far as our problems are concerned.

11 Thank you.

12 THE CHAIRMAN: Mr. McDonald?

13 MR. BRAZIER: If I might be excused by Mr.
14 McDonald, Mr. Chairman, there is one short statement
15 that Mr. Hughes has prepared. It is on a question
16 that has been raised once or twice, as to where the
17 railway is to get necessary revenue if they are moving
18 at fully distributed cost.

19 THE CHAIRMAN: We are very interested in that.

20 MR. BRAZIER: I thought that before railway
21 counsel started their cross-examination it would be
22 as well to have him read in this statement which he
23 has prepared.

24 It is not an easy question to answer, and
25 Mr. Hughes has prepared a brief statement, and, with
26 everybody's permission, we will read it into the record
27 now.

28 THE CHAIRMAN: Yes, read it now.

29 THE WITNESS: Paragraph 111 of Part 2 of
30 the B. C. submission reads as follows:



"It is suggested that maximum
schedules be drawn up for captive traffic."

Paragraph 114 reads:

"In order that there be some relation
to costs in the schedules, it is suggested
that the maximum rate schedules be the
fully distributed costs as far as could
be ascertained."

This proposal immediately begs a question. If railways
are to carry captive traffic at no more than fully
distributed cost how are they to remain solvent?

The question is provoked largely by the con-
strued nature of "fully distributed costs." These
costs are no more than a statistical allocation of
constant expenses among the units of traffic handled;
they cannot be "fully distributed" except on a purely
arbitrary basis, whether it be by ton miles, tons,
passengers, or the proportion of variable costs of the
traffic to the total variable costs. This being so,
it is obvious that several different "fully distributed"
costs can be given for any particular traffic.

"Fully distributed" costs are out-of-
pocket costs plus a prorated share of constant costs.
Constant costs can be viewed as a block of expenses
which remain the same irrespective of the traffic being
handled.

The problem is that this block of constant
expenses must be recovered from all traffic. If
traffic covers something more than its out-of-pocket



1 costs then some contribution expenses is made. It is
2 the total contribution that is important rather than
3 the contribution per unit. For example, if 200 tons
4 moved at a rate of \$4 per ton above out-of-pocket
5 costs the contribution to this block of constant
6 expenses would be \$800. The rate of \$4 may be below
7 or above the level of "fully distributed" costs.
8

9 A lower rate of \$3 may move 300 tons and
10 contribute \$900 to constant expenses. Now, the rate
11 of \$3 may even be below "fully distributed" costs.
12 So, if there is a block of constant expenses to be met
13 by all traffic the rate below "fully distributed" costs
14 will contribute more revenue to constant expenses than
15 the rate above "fully distributed" costs.
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20 (Page 13787 follows)
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1 This is not merely theoretical. The Interstate
2 Commerce Commission study shows the situation well,
3 in the absence of Canadian studies. The Interstate
4 Commerce Commission statement 2-59 "Distribution of
5 the rail revenue contribution by commodity groups,
6 1957", page 1, shows the principal contributors to
7 constant costs in various territories. Some of these
8 commodities were primary commodities: lumber,
9 fertilizers, wheat, coal. The biggest contributor
10 by far was coal, and yet the commodity did not cover
11 its fully distributed costs.

12 The British Columbia proposal would put
13 maximum rates for captive traffic at fully distributed
14 costs, however calculated. If any of these commodities
15 are now being carried at a lower level than this,
16 there is no reason to think that the actual rates
17 would go up as the railways may suffer a loss in
18 net revenue. Should any captive traffic be now
19 carried at above this level, the rates would be
20 reduced.

21 All rates, of course, cannot be below fully
22 distributed costs and the question arises of how can
23 the railways live and make a profit if primary
24 commodities and other captive traffic is carried at
25 this level.

26 In the British Columbia scheme any difference
27 between total revenue and total cost will have to be
28 borne by the competitive traffic. Some competitive
29 traffic will take rates at above fully distributed
30 costs. This is essentially the present situation as



1 can be seen by the Interstate Commerce Commission study.
2 In this traffic which is normally competitive, the
3 traffic contributed revenues above fully distributed
4 costs in the following proportions:

5 Item 523, crude rubber, 177 per cent is the
6 ratio of revenue to fully distributed cost.

7 Item 525, rubber goods, N.O.S., 153 per cent.

8 Item 595, machinery and machines, 210 per
9 cent fully allocated cost.

10 Item 597, machinery parts, 208 per cent.

11 Item 607, 195 per cent.

12 Item 615, 188 per cent.

13 Item 617, 177 per cent.

14 There are many other similar items all in
15 the manufacturing miscellaneous group which is the
16 most competitive group of all.

17 Because an article is in competition, there-
18 fore, it does not mean that rates are below fully
19 distributed costs. The reason for the high rates
20 is that the competitors' rates are even higher.

21 The upper limit for rates set at fully
22 allocated costs is not necessarily a burden on the
23 railways in view of their proven ability to charge
24 higher than fully distributed costs on competitive
25 traffic.

26 However, should the railways prove that
27 their revenues are not sufficient to cover their total
28 expenses, then British Columbia is not inflexible in
29 the maximum rate position. The province would be
30



1 willing to have a maximum rate above fully distributed
2 costs providing that such rates reflected railway
3 costs.
4

5
6 CROSS-EXAMINATION BY MR. McDONALD:

7 Q. Mr. Hughes, I refer first to Part 1 of
8 your submission, page 16, at the bottom of the first
9 column where the following statement appears:

10 "The most important products shipped by
11 "rail are lumber, accounting for merely 46 per
12 "cent of total shipments . . . "

13 Now, for the assistance of the Commission,
14 can you give us the value of lumber shipped from
15 British Columbia in each of the years 1952 to 1959
16 inclusive to the following places ---

17 MR. BRAZIER: You mean right now?

18 MR. McDONALD: Well, he can do it later.

19 Q. --- (a) Western provinces -- and when
20 I say "western provinces", I mean Alberta, Saskatchewan
21 and Manitoba. (b) Ontario and Eastern Canada.
22 (c) The United States. (d) The United Kingdom.
23 I don't expect you to give it right now.

24 A. The value -- what kind of value?

25 Q. In dollars.

26 MR. BRAZIER: The price of lumber goes up
27 and down so violently these days.

28 MR. McDONALD: Well, I think it will give what
29 we want, and you can reduce it to constant dollars if
30 you wish. What I want to see is the trend of where the



1
2 lumber is going. You speak in here about the
3 United Kingdom market being reduced, and so on, and
4 yet your production of lumber has increased. I want
5 to see where it has been going -- what the shift has
6 been.

7 THE CHAIRMAN: What the movement is.

8 MR. McDONALD: What the movement is.

9 COMMISSIONER GOBEIL: And to other countries.

10 MR. McDONALD: Q. Are those the principal
11 places to which your lumber goes from British Columbia?

12 A. Yes.

13 Q. Can you get me that information?

14 A. I think I can.

15 MR. BRAZIER: May I be of some assistance,
16 Mr. McDonald. The British Columbia Manufacturers
17 Association, in their annual report each year, does
18 give a wealth of statistics on production and shipments
19 of lumber in British Columbia, and they are all in
20 million board feet. It would be a considerable task,
21 I think, to convert those into dollars, and I think
22 probably the board feet mean more, actually, than the
23 dollars do.

24 MR. McDONALD: Quantity rather than the
25 value -- yes, that is all right, as long as we use the
26 same yardstick all the way through. It won't be too
27 difficult to get that?

28 MR. BRAZIER: No, we will get that for you.

29 MR. McDONALD: Thank you.

30 Q. On page 18, the statement is made:



1 ". . . this cost has been disproportionate
2 and constitutes an undue burden as a result of freight
3 rate increases."

4 You are speaking about the cost of freight
5 and the increases: do you know of any instance where
6 any shipper has been hurt in British Columbia by
7 the present level of freight rates?

8 A. It is very hard to find a specific
9 instance of where anybody is hurt. You have to more
10 or less go and find a man who has gone out of business.
11 But, I do know that the coastal people no longer sell
12 any dimensional lumber in Central Canada, and the
13 reason -- and the traffic manager of MacMillan-Bloedell
14 told me -- that it was the percentage increase that
15 had taken them right out of the market and they could
16 not get into it.

17 Q. "The coastal people --would that be
18 from Vancouver?

19 A. Vancouver and the island, and the coast.

20 Q. To Central Ontario, and so on?

21 A. Yes, this is a market that they used to
22 get into and they no longer do.

23 Q. Did that lumber from Vancouver, coastal
24 lumber, to Central Ontario take all the percentage
25 increases?

26 A. Not the lumber to Ontario, no.

27 Q. Because you are aware of the fact that
28 shipments of lumber from Vancouver and that district
29 to Ontario is based on the rates from Seattle,
30



1 Washington?

2 A. Yes.

3 Q. And they have only taken the ex parte
4 increases in the United States which have ~~am~~ amounted,
5 since 1951, to 19 per cent?

6 A. 119 per cent?

7 Q. Well, 19 per cent.

8 A. 19 per cent increase.

9 Q. Yes, 19 per cent increase.

10 A. I will have to look into that. I don't
11 accept that.

12 Q. You can check that figure.

13 A. I will check it, yes.

14 MR. BRAZIER: Your proposition, Mr. McDonald,
15 is that the ex parte increases in the United States
16 have amounted to 19 per cent?

17 MR. McDONALD: Since 1951.

18 COMMISSIONER MANN: Is that the increase
19 on western to official territory, or is that the
20 general United States increase?

21 MR. McDONALD: It reflects the increase
22 over the former rate, I am told. That can be checked.

23 MR. BRAZIER: I think your adviser stated
24 that it was the percentage increase in the rate since
25 the rate was put on the Seattle basis. I think that
26 proposition is right, but at one time it was not based
27 on the Seattle rate, and finally it was, and it has had
28 19 per cent increase since that time.

29 MR. McDONALD: Yes, 1951 was the time of
30 it.



1 MR. SINCLAIR: The railways did what the
2 lumber people asked them to do.

3 MR. McDONALD: Q. So, therefore, follow-
4 ing that, as you stated about MacMillan-Bloedell and
5 this lumber -- the difficulty of getting it into the
6 Ontario market on account of the Canadian percentage
7 increases, that is not correct, is it, if my advice
8 is so, that they didn't get the Canadian percentage
9 increases?

10 A. He was speaking about the general
11 revenue cases since the war. He was not talking
12 about since 1951, and this was the reason he gave.
13 It was not Mr. Campbell. It was another traffic
14 manager, at the Vancouver Island plant who told me
15 that.

16 Q. Then, do you know whether the sales
17 of any of the products enumerated in Table I to the
18 Canadian market east of the Rockies have been in-
19 creased since 1952?

20 A. Have any of these . . . ?

21 Q. Have the sales of any of these products
22 enumerated there to the Canadian market to points
23 east of the Rockies been increased since 1952?

24 A. I should think so in view of the great
25 increase in population and gross national product
26 which we have had in Canada, yes.

27 Q. So, despite increases in freight rates,
28 the sales to Canadian markets east of the Rockies have
29 increased?
30



1 A. Because the general level of prices
2 and gross national product have been going up, and
3 population has been going up. If everything else
4 had been static, I have no doubt increased freight
5 rates would have cut things down. Of course, railways
6 don't carry all the traffic into the prairies.

7 Q. Then, on page 21, Table XII, that is
8 the table that shows the approximate exports of sawn
9 and planed softwoods from selected countries to the
10 United Kingdom. Now, that shows a substantial loss
11 in Canadian shipments; is that right?

12 A. Yes.

13 Q. Are all those shipments referred to
14 there related to British Columbia lumber?

15 A. No, this is Canadian.

16 Q. Well, what proportion of that would be
17 attributed to British Columbia?

18 A. A large proportion, but I can't --
19 I was looking around for British Columbia figures,
20 and I couldn't get any, but I can assure you it is a
21 large proportion of this.

22 Q. Have you any figures taking the export
23 of this type of lumber from Canada, and what propor-
24 tion British Columbia lumber bears to the whole?

25 A. It is very large. British Columbia,
26 as you know, is the major exporter of lumber in
27 Canada, almost entirely of certain types of lumber.

28 Q. Yes.

29 A. And I cannot tell you right now, but I
30



1 can assure you it is very large.

2 Q. Would it be 90 per cent?

3 A. I should think so; I think it is up
4 in that region.

5 Q. Outside of mine props, and so on,
6 shipped from America, I guess most of it would be from
7 British Columbia?

8 A. Yes.

9
10 ---A short recess.

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1 THE CHAIRMAN: Order, please. Mr. McDonald?

2
3 MR. McDONALD: Q. Then, Mr. Hughes, we
4 were dealing with the question of the British Columbia
5 exports as compared to the total Canadian exports of
6 lumber. You stated that they were a large proportion
7 of the total, and then the exports to the United
8 Kingdom were, according to your statement, sharply
9 reduced, but there was an increase in forestry pro-
10 duction in British Columbia from 1954 to 1959. That
11 is also shown in your statement?

12 A. Yes.

13 This is opening up the land; we get
14 more population and more people working and more
15 housing construction, and so on, in Canada, and natural-
16 ly there will be increase in production.

17 Q. Your statement shows there was an
18 increase in production, there was a reduction in
19 sales to the United Kingdom market which was substantial.
20 But what market absorbed your loss of sales in the
21 United Kingdom and your increased production?

22 A. Mainly the United States. But, at the
23 same time, if there is a drop in the market, as very
24 often happens, there is a drop in production; the
25 mills just keep the stuff and there is a drop in
26 production, and this could have happened here.

27 Q. Your statement shows there was an
28 increase in production between 1954 and 1959 and, at
29 the same time, there was a reduction in your sales to
30 the United Kingdom. I want to know what market



1
2 absorbed both the reduction in the United Kingdom
3 sales and the increased production?

4 A. Well, this would be mainly the United
5 States.

6 Q. Did the Canadian market take any of it?

7 A. Yes, there is an increase in shipments
8 to the Canadian markets.

9 Q. Then on page 22 your statement is made:

10 "The vagaries of export markets
11 and prices make imperative access of
12 British Columbia producers to markets
13 at home. Only with assured Canadian
14 consumption can producers hope to com-
15 pete abroad."

16 I am not just clear what you mean by that statement.
17 Would you elaborate on that?

18 A. The export markets are very -- they
19 fluctuate a good deal, and with our new trading blocs
20 coming in in Europe we are getting very worried about
21 what is going to happen to Canadian lumber, and it is
22 this kind of situation. I have a little cutting out
23 of The Financial Post here, and I would like you to
24 see what has happened in the lumber situation and what
25 is likely to happen if the trading blocs come in.
26 This is The Financial Post, May 21st, 1960, and it is
27 talking about trading blocs.

28 THE CHAIRMAN: Who wrote that?

29 THE WITNESS: Paul S. Beacon, Financial
30 Post Investment Editor.



1
2 "Our timber and some paper products
3 are the items in our U.K. exports most
4 affected by the new EFTA arrangements,
5 with fish and agricultural products
6 involved to a lesser extent."

7

8 "While agricultural and fisheries
9 products are generally excluded from the
10 EFTA tariff reduction program, many
11 allied items of great interest to Canada
12 are affected. Such producers as prepared
13 soups, preserved and processed fish
14 (including canned salmon and canned
15 lobster), fishmeals and frozen fish
16 fillets will be considered industrial."

17

18 "A great deal of what we sell over-
19 seas is in the form of standard products
20 -- raw materials that compete to a great
21 extent on price rather than special
22 qualities of design.

23 "Removal of a tariff preference,
24 or an increase in external tariff of a
25 trading bloc while internal tariffs are
26 reduced quickly alters our ability to
27 compete."

28

29 "In addition, other sources of metals
30 and other industrial materials have been



1 developed in recent years, particularly
2 in Africa. These will intensify our
3 competitive problems."
4

5 And it goes on:

6 "One example is aluminum."

7 This is the reason we are getting very worried.
8 We are going, evidently, to get timber affected out of
9 seven, fish products and aluminum, and that is why we
10 write things like this.

11 Q. That wasn't part of your statement I
12 didn't just understand. You say:

13 "Only with assured Canadian consump-
14 tion can producers hope to compete
15 abroad."

16 What has the Canadian consumption got to do with your
17 ability to compete abroad?

18 A. It has a great deal to do with it,
19 because take the British market in canned salmon, and
20 the Japanese will come in with a shipload and force
21 our prices down until the producer is getting no profit,
22 and if he can have the Canadian market to sell his
23 excess, then he is in a much better position than if
24 he has nothing at all. A man producing only for
25 the export market, as a lot of producers do, are in
26 a very bad way; they have to take a loss from Japan
27 and Russia.

28 Q. One meaning I took from this as I read
29 it is that you were expecting a little cross-subsidiza-
30 tion here, that you would make enough money on your



1 products you sold to the Canadian market that you
2 could cut your prices to compete in the foreign
3 markets?
4

5 A. No, that isn't the point.

6 COMMISSIONER ANSCOMB: But that is the
7 general point of industry, isn't it? You get your
8 prime cost down to compete in the foreign market.

9 THE WITNESS: You are able to spread your
10 costs out and keep it going without shutting it down
11 completely.

12 COMMISSIONER GOBEIL: Is it not a fact that
13 the Japanese plywood is as bad for you as your freight
14 rate for the eastern market?

15 THE WITNESS: Yes, we are getting Japanese
16 plywood in. I have seen Japanese plywood and wood
17 coming into the docks. There is a great deal of
18 competition coming from all over.

19 MR. McDONALD: Q. Then page 26, on the
20 column on the left hand side, the second full paragraph
21 from the bottom:

22 ". . . British Columbia shippers have
23 to pay a high freight charge swollen
24 out of proportion by unremunerative
25 services offered elsewhere and by
26 other factors."

27 What other factors do you mean, have in mind there?

28 A. The one and one-third rule is an
29 example, and horizontal -- well, the distance from
30 the market there is included, that type of thing.



1
2 Q. That is what you mean by "other factors"?

3 A. Yes.

4 Q. Then on page 29 you have the statement
5 that the Province of British Columbia has a great
6 interest in the matter as the greater proportion of its
7 traffic moves at rates which take the full general
8 freight rate increase, and I just wanted to point that
9 up again. I have already dealt with that. Lumber
10 is one of your largest commodities, and they haven't
11 taken the full Canadian freight rate increase?

12 A. I agree with you, they haven't. In
13 the eastern market they haven't. They have taken
14 quite a lot in the prairies.

15 Q. On page 31 you state:

16 ". . . it is felt that rising railway
17 expenses are not incurred in the west
18 to the same extent as in the east."

19 Would you just explain that and what the basis of that
20 statement is?

21 A. This is because in the east you get more
22 short-haul traffic than you do in the west, and in short-
23 haul traffic you get a larger proportion of terminal
24 expenses, which is very heavily in wages in the east,
25 whereas in the west you get long-haul and good
26 utilization and the wages as a proportion of the total
27 cost is not so great.

28 Q. You don't mean there is any difference
29 in wages or fuel expenses?

30 A. No, I am not saying there is a differential



1
2 in wages. It is just the utilization and type of
3 hauls which takes more labour in the east than it
4 does in the west.

5 Q. On page 37 you are dealing with
6 rail-lake-rail traffic, and I think you said earlier
7 in Mr. Cooper's examination that you understood that
8 this portion of the lake haul was performed by railway-
9 owned vessels?

10 A. That was my understanding, yes.

11 Q. We might clear that up. Canadian
12 National has no vessels on the Great Lakes, so that
13 doesn't apply to us.

14 A. Yes, but if the C.P. has -- well, that
15 is all right.

16 Q. As far as Canadian National is concerned,
17 anyway, there are no railway-owned vessels.

18 Then are you aware of the fact that in fixing
19 these rates, this reduction in the rate when it goes
20 by rail-lake-rail, it is the steamship company which
21 takes the reduction, not the railway company. The
22 railway company is not losing any money, it is the
23 steamship that is taking the reduction?

24 A. I am not too sure of the situation ---

25 Q. Speaking from the Canadian National
26 standpoint, when one of these rail-lake-rail rates
27 is fixed and there is this differential, it is the
28 steamship company that takes the lower charge for
29 their portion of the haul?

30 A. Yes, I realize that.



1
2 Q. Then speaking of these freight rate
3 increases and the effect on British Columbia, you are
4 aware that there are hundreds of transcontinental rates
5 put in to meet competition?

6 A. I will take your word that there are
7 hundreds.

8 Q. I didn't count them; I took a look at the
9 tariffs. I would say hundreds would be pretty safe.
10 For instance, the transcontinental rates in open tariffs
11 -- I got this from the Canadian Freight Association --
12 Tariff No. 1-N, CTC No. 1575, westbound, and for east-
13 bound there is Canadian Freight Association Tariff No.
14 101-J. Those list those rates?

15 A. Yes.

16 Q. Then on agreed charges, I just had these
17 taken off, and it may be of interest if you consider
18 these. It is an easy matter to check them because
19 they are all listed. Eastbound to central Canada and
20 east from Manitoba, there are seven; from Saskatchewan,
21 nine; from Alberta, seventeen; from British Columbia,
22 the interior, three, and the coast, ten. Then
23 westbound from central Canada and east you get 71 to
24 Manitoba, 41 to Saskatchewan, 66 to Alberta, 22 to
25 the interior of British Columbia, and 90 to the coast.

26 A. What was the number for Manitoba again,
27 please?

28 Q. Seventy-one.

29 A. You have the figures for Ontario and
30 Quebec there as well?



1
2 Q. No. I just took it off for Manitoba,
3 Saskatchewan, Alberta, British Columbia, and so on.
4 You can check that up. Those are the figures given
5 by the Traffic Department?

6 A. Yes.
7
8
9
10
11

12 (Page 13808 follows)
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1
2 Q. Paragraph 29, at the bottom of page 9,
3 the last sentence, you state -- I might read the first
4 part of that paragraph to get the full meaning of it.

5 Paragraph 29:

6 "In view of the growth of competition, one
7 "would expect that there would have been a
8 "corresponding movement toward rate-making
9 "based on costs in order that the full
10 "potentialities of railway cost advantages
11 "could be realized. However, this has not
12 "been the case. Railway management seems
13 "to have been somewhat complacent about
14 "the competitive situation up to now in
15 "view of increasing railway tonnage induced
16 "by rising industrial production, population,
17 "and gross national product in the last decade.
18 "The fact that the railshare of tonnage has
19 "declined is obscured in a growing economy,
20 "and the relative loss of traffic has been
21 "cushioned by absolute gains. Under such
22 "circumstances, there has been no hurry
23 "to change long-established traditional
24 "thinking and practices."

25 Now, you are aware, no doubt, speaking over the period
26 of the last ten years, that the railways have put in
27 over 1,000 agreed charges to date, you know that.

28 A. Yes, just over 1,000.

29 Q. There are thousands of competitive
30 rates have been put in.

A. Yes.



1
2 Q. Incentive carload rates have been
3 established.

4 A. Not very many of those.

5 Q. And piggy-back has been introduced,
6 growing considerably?

7 A. Yes.

8 Q. Does not that indicate some progressive
9 thinking on the part of railways, rather than being
10 complacent?

11 A. We still have not got any loadability
12 incentive to load cars right up, or we haven't got
13 very many of them. We haven't got anything ---

14 Q. There are minimum weights and different
15 rates, lower rates for higher minimum weights.

16 A. I think paper products is one. I don't
17 know of any others as far as I know. I know there are
18 some, but not very many incentives for higher carload-
19 ings. I don't recall anybody suggesting multiple
20 car rates, for example. There is another one ---

21 Q. Well, do you know that you cannot quote
22 multiple car rates under the present law, regulations?

23 A. I did not know that.

24 Q. The Board has ruled against that some
25 years ago on the basis that that would be unfair to
26 the small shipper. If a shipper had 50 carloads and
27 got a lower rate, the one with one carload had to pay
28 a lower rate.

29 COMMISSIONER MANN: Section 32 of the
30 Transport Act forbids the making of multiple carload



1 rates on agreed charge traffic.

2 MR. McDONALD: On agreed charge only, but
3 the Board had ruled on the matter some years ago in
4 so far as multiple car rates were concerned.

5 Q. Paragraph 50 and 51 on page 15, this
6 is where you deal with your cost-oriented rate-
7 making and the use of marginal cost as a minimum rate.
8 What I take from your proposal is that the floor for
9 all the rates should be no lower than variable cost.

10 A. Yes.

11 Q. Well, as far as Canadian National is
12 concerned, we would agree with you on that proposition,
13 because we agree that no traffic should be carried at a
14 rate less than variable cost; but where we disagree
15 with you is on the publishing of these minimum rates.
16 How important is that now?

17 A. Well, I said yesterday that if they are
18 not published, then there may be a possibility that the
19 railways will go below out-of-pocket costs for some
20 period of time, in order to do away with a competitor.
21 We don't know; but we would know if we could see, if
22 the captive shippers, non-competitive shippers could
23 see that there was no burden being put on them by the
24 railroads.

25 Also, truckers want to make sure that there is
26 none of this so-called predatory pricing -- I keep
27 using the term but I hate the word -- they want to be
28 certain that no traffic is carried at less than out-of-
29 pocket costs, because the railways have such a large
30



1 proportion of the total transportation cost, common
2 carrier transportation in this country, that any
3 individual trucker would not stand a chance if there
4 is any selective rate-making. We are not saying this
5 happens at all; I am saying it could very well happen
6 in the future.
7

8 Q. Why should we be so considerate of
9 the truckers who are our main competition and who do
10 not publish their costs or give their costs to anyone?

11 A. I think the railways are very much
12 bigger than any individual truckers, and I am sure
13 that truckers do not know their costs in many cases;
14 but what I said yesterday, to go on, was that it would
15 not be necessary at all to publish minimum schedules
16 if there was somebody in the regulatory body, a cost-
17 finding section, so that the minimum schedules could
18 be just filed and examined without publication.

19 Q. Yes, you realize from the practical
20 standpoint, publishing these in all sorts of tariffs,
21 the cost and the work involved, it would take a few
22 years to get them published. Then you would have to
23 change it at great expense every time there was an
24 increase in costs.

25 A. I cannot see that there would be all
26 that expense in publishing, because it is one classi-
27 fication which works right down through the carload
28 scale.

29 Q. Don't you think for all sorts of
30 different types of cars and moving between different



1 points all across Canada, you would have thousands of
2 them?

3 A. I don't think so. You would certainly
4 have your different types of cars, but this would be
5 taken into account in the classification, the kind of
6 car that the commodity usually travelled in. You
7 already have route tables printed, you already have
8 distance scales.

9 I do not see that there would be any more
10 work. There would be probably considerably less
11 work for years, and there would be considerably less
12 work because in essence there will be a competitive
13 type of tariff and there will be a captive type of
14 tariff so you would not have so many tariffs around,
15 all kinds of different ones.

16 Q. Do you know any business in the free
17 economy that publishes the costs of its services or
18 the product it has to sell?

19 A. Well, I am not talking about free
20 business enterprise. We are talking about a public
21 utility.

22 Q. Do you know any public utility that
23 publishes its costs of all the services it renders?

24 A. United States railroads, yes.

25 Q. What do you refer to there, the burden
26 study?

27 A. Yes.

28 Q. But that is a really different ---

29 A. You can get out-of-pocket costs for
30



1 each type of car or line terminal costs and so on.

2 Q. You take any business, do you know any
3 businessman in Canada that publishes his costs for
4 his service or the goods he has to sell?

5 A. No, because most businessmen in Canada
6 are not public utilities in the position that the
7 railways are in.

8 Q. I am just speaking of general businessmen,
9 as a practice. It is unknown in Canada, is it not?

10 A. Yes, but I am not asking you to publish
11 costs if there is a section in the Board of Transport
12 Commissioners that can do it, that can look at them.
13 I am not asking for publication of costs unless this
14 thing is not set up in the Board.

15 Q. Don't you ask for it in your brief, in
16 your submission, publication?

17 A. I think I qualified it -- no, I did not
18 qualify it, but I am qualifying it now and I have done
19 for the last two or three days, that if an adequate
20 cost-finding section is formed in the Board, there is
21 somebody there that knows about out-of-pocket costs,
22 it is not necessary to publish them. You would be on
23 the same basis as any public utility, because the
24 Public Utilities Commission of British Columbia and a
25 lot of others know the costs of the electric
26 utilities and gas utilities and so on.

27 Q. Do they send to each consumer what it
28 costs them to produce the electricity they are selling?

29 A. No, and again I am not asking for that
30



1 to be done if there is a cost-finding section in the
2 Board.

3 Q. Another thing, how are the railways
4 going to negotiate rates with shippers if those shippers
5 know their costs?

6 A. It all hinges on the same thing. If
7 there is a cost-finding section, you would not need it.
8 In the United States this happens, the shippers know
9 roughly the costs, they know the type of car, they
10 know the length of haul and so on, and it has done
11 very well in the United States.

12 Q. Well, we are dealing with a little
13 different situation in Canada, because you would
14 realize, getting to the practical standpoint, if you had
15 some goods and you wanted to ship them and you were
16 trying to get a rate on it and if you knew the costs
17 of the railway, you know where you would be starting
18 your negotiations, at that cost plus 1 per cent.

19 A. Well, you would be starting at out-of-
20 pocket costs.

21 Q. My submission is that it certainly
22 would not be workable, and that is what our rate people
23 tell me.

24 A. This is why I say again that if you
25 have a cost-finding section then maybe it would not be
26 necessary.

27 Q. Then they would not be made public, they
28 would be just given to the Board.

29 A. That is right, just filed.
30



1
2 Q. Then did you make any study to determine
3 how long it would take the railways to prepare these
4 minimum rate tables?

5 A. Well, I said that I think it would take
6 three, five years to get the scheme put in. I said
7 that yesterday.

8 Q. And then how often would they have to be
9 revised?

10 A. Well, the railways now know a great deal
11 about their costs, they have been doing cost studies
12 -- it was said in the transcript, Mr. Stenason said
13 they have been doing it for ten or fifteen years,
14 and they have costed pretty well every major commodity,
15 now, so the costs are already there.

16 Q. Once you get it in, three to five years
17 to put it in, and there are cost changes, there are
18 wage increases, fuel increases and tax increases and
19 so on, how often would these have to be revised?

20 A. Well, I think that when the minimum
21 schedule is there, then some reasonable forecast will
22 have to be made of increasing costs. You don't want
23 the costs as of this minute. If you expect a wage
24 increase tomorrow, then you would have to adjust for
25 it, as we do now when there is a percentage increase.
26 Then the Board takes into account what is going to
27 happen tomorrow, what is going to happen in the
28 reasonable length of time.

29 What happens when your costs for other
30 traffic go up? You don't have to go through and



1 alter all your cards. You know approximately what
2 that increase is.

3 Q. I am talking about your proposed
4 system, your minimum rate schedules which reflect
5 variable costs. They would have to be kept up to
6 date.

7 A. No, not every day, they would not have
8 to be kept up to date. I think it is reasonable,
9 with a bit of give and take in this, I think we can
10 forecast pretty well the level of costs at least a
11 year ahead. I know it is difficult to do, but the
12 railways have had an awful lot of experience in
13 costs and they should know something about the likely
14 trend of events, say, in the next year's time.

15 Q. Take an example. Suppose there is an
16 increase in wages given to engineers and firemen, for
17 instance. How are you going to figure that out in
18 your costs on all these various shipments?

19 A. Well, it would either come in the
20 terminal group or route arbitrary or distance, but
21 you would not be putting an increase in the terminal
22 costs onto the line haul or anything like that, or
23 branch line costs onto main line costs. I think it
24 would be fairly simple to do.

25 Q. You think it would be fairly simple.
26 Then have you made any estimate of the cost to the
27 railways of preparing these minimum schedule rate
28 tables?

29 A. As I have said, I think they have already
30



1 done it for a great many commodities, so I don't think
2 there would be too much additional cost.

3 Q. Do you know the number of schedules
4 that would be involved?

5 A. There would be one basic schedule and
6 this is the distance one. There would not be thou-
7 sands of schedules. There would be the basic
8 distance scale there, not a great number.

9 Q. What about the varying costs for
10 different commodities?

11 A. This is taken account of in the classi-
12 fication. To handle grain, for example, it may cost
13 exactly the same as a hundred other commodities and
14 they would all come in the same part as far as handling
15 characteristics are concerned, cost of handling.

16 Q. Would your cost schedules cover separately
17 box cars, covered cars, tank cars, covered hopper cars?

18 A. No, again this would be incorporated in
19 the classification. We know that grain normally
20 travels in box cars or lumber very often travels in
21 box cars also, but knowing these things about commodities,
22 we know the way they normally move and we know the
23 cost, they normally move in box cars and so on. This
24 would be incorporated into the classification.

25 Q. Do you know whether any railway has
26 published these minimum rate schedules?

27 A. Well, I know that it is not very hard to
28 find the I.C.C. costs for various types of cars.

29 Q. Has any railway published these minimum
30



1 rate schedules?

2 A. Yes, in France.

3 Q. In France?

4 A. That is one country.

5 Q. Are they published there?

6 A. Yes.

7 Q. How long has it been in effect?

8 A. I am not sure, but I think it is since
9 1950 they have been published in France.

10 Q. Is that on the same scheme as yours?

11 A. Pretty well, yes.

12 COMMISSIONER MANN: Mr. Hughes, the
13 British Transport Commission does not publish minimum
14 rate schedules, but does it have a pretty good idea
15 of its variable costs?

16 A. Oh, yes, they have cost teams, they
17 have had cost teams for a long time now, and they know.
18 They stated objective is not to make a rate at less
19 than out-of-pocket costs, and they have gone now to
20 find their out-of-pocket costs, and it is really
21 surprising, I think.

22 COMMISSIONER MANN: There is nothing in the
23 British law that prevents the British Transport
24 Commission from publishing rates below out-of-pocket
25 costs.

26 THE WITNESS: No, there is nothing to
27 stop them at all.

28 COMMISSIONER MANN: Thank you.

29 THE WITNESS: Excuse me, Mr. McDonald.
30



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1 The French railways first published, to be exact,
2 their minimum and maximum with arbitraries for the
3 terminals, in 1947, and this took them since the end
4 of the war, about two years. Things were getting on
5 when the war was over and it took them about two years,
6 it took them to March, 1947, to get their first
7 publication in.
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1 COMMISSIONER MANN: And you relate your
2 minimum cost to variable schedules?
3

4 THE WITNESS: Yes.

5 COMMISSIONER MANN: And those are the
6 schedules below which the French railways will not go?

7 THE WITNESS: These are what are called
8 direct costs and from the records of the United Nations
9 Cost Committee, in the book that I have been reading
10 on that, they define "direct cost" as "out-of-pocket
11 cost".

12 COMMISSIONER MANN: Thank you.

13 MR. McDONALD: Q. Well, in paragraph 56 --
14 route cost -- on page 15, you say that unless the
15 railways do allow route cost differences to be reflected
16 in the rate, they will continue to encourage truck
17 competition along what should be the most profitable
18 lines while they will be left with unremunerative
19 traffic elsewhere.

20 What I understand from your submission on
21 this point -- I just want to make sure that I am clear
22 on it -- is that the railway must take into considera-
23 tion, in fixing its rates, the higher cost incurred,
24 say, on light density branch lines.

25 A. If there are high costs there, it would
26 do.

27 Q. You add that.

28 A. Yes.

29 Q. For instance, you would assume that on
30 your main line, where you had high density traffic,



1 you have lower costs?

2
3 A. If there were lower costs; but you
4 may have high terminal costs because of congestion.
5 It all depends on how the cost figures come out.

6 Q. But suppose you have 40 miles on a
7 branch line and 500 miles on the main line, this
8 portion on the branch line, on account of low cost
9 difference -- you would have to add something to that.

10 A. Yes.

11 Q. For instance, take some specific
12 examples. Take the Hudson Bay Railway operated by
13 Canadian National. According to your theory of
14 costs, if it is found that the costs from this line are
15 higher than on the trans-continental line, this should
16 be reflected in the rate.

17 A. No; it would be reflected in the minimum
18 rate schedule; but you have already said yourself
19 that the C.N.R. wouldn't want to carry traffic at less
20 than out-of-pocket cost. It would be lower than out-
21 of-pocket cost. But it is up to the railway to do
22 what they do in the tariff.

23 Q. Well, the tariff? -- I thought your
24 minimum rate schedule -- I thought that was the founda-
25 tion for your tariff.

26 A. It certainly isn't the tariff. This is
27 the level below which the railways' rate would not be
28 allowed to fall.

29 Q. So, therefore, following along with the
30 Hudson Bay Railway, we heard the evidence of carrying



1 grain up to Churchill. There is practically 100 per
2 cent empty return movement of those cars, so it costs
3 more to handle grain to Churchill than the head of the
4 lakes.
5

6 A. Yes, I can quite see that.

7 Q. Therefore, according to your theory of
8 costing, that extra cost should be reflected for
9 these movements.

10 A. No; I say the minimum rates schedule
11 would reflect that; and if the railway wanted to re-
12 flect it in the tariff for any reasons -- very good
13 reasons, of course -- then there is nothing to say
14 that they shouldn't keep the relationship. But we
15 want to make sure that the Hudson's Bay Railway was
16 not carrying at less than out-of-pocket cost and the
17 burden being put somewhere else.

18 Q. If the costs were higher on that route,
19 then the floor for your rates. . .

20 A. The floor would be higher.

21 Q. . . . would be higher.

22 A. Yes.

23 Q. And you couldn't come below that.

24 Then, there is another instance in British
25 Columbia, the Canadian National line to Prince Rupert,
26 which is about 200 miles longer than the line to
27 Vancouver; and you know the rates in Vancouver and
28 Prince Rupert are equalized, I understand.

29 A. Yes.

30 Q. So, therefore, on your theory of costing,



1 then, the floor on all those rates would be based on
2 the actual cost on the Prince Rupert line for Prince
3 Rupert traffic.
4

5 A. Certainly there is an element of
6 grouping here. What do we understand by grouping?
7 Is that your question?

8 Q. No; this is routine. You have one line
9 going to Prince Rupert and you have another line going
10 to Vancouver. Strictly applying your cost of
11 service on traffic going to Prince Rupert, to get
12 the floor, we would have to determine the actual costs
13 on that line which would take into consideration the
14 extra mileage.

15 A. Yes; the floor would be different in
16 both cases if the costs were different.

17 Q. And the line for Prince Rupert being
18 200 miles longer, isn't it reasonable to assume that
19 the costs would be higher?

20 A. Yes.

21 Q. So the floor for all rates on that
22 line would have to be higher than those to and from
23 Vancouver?

24 A. The floor would have to be different;
25 not necessarily the rate.

26 Q. Then, we have other lines that we can
27 speak of in the Canadian National. There is a line
28 in the Province of Quebec from St. Felicien to
29 Chibougamau, where there is a new line, and from
30 Beattyville to Chibougamau.



1
2 A. Yes.

3 Q. On your floor theory the rates on
4 the lines would depend on the actual cost of handling
5 the traffic on the line.

6 A. Yes; the C.N.R. doesn't want to carry
7 traffic at out-of-pocket cost, so there would be no
8 objection to that.

9 Q. Then, in paragraph 73 on page 20, you
10 refer to:

11 "Competition and its relationship to

12 "minimum carload weight is discussed by

13 "Dr. Joel Dean . . . "

14 This deals with the United States situation, doesn't
15 it -- only.

16 A. Yes.

17 Q. And I suggest to you that that has no
18 reference, or has no application, to the situation in
19 Canada? He speaks of ". . . on LCL freight, the
20 lowest rail rate is for 5,000 lbs. . . ." That
21 situation doesn't prevail in Canada? You are aware of
22 that?

23 A. No; but the principle he is talking
24 about applies to Canada. In my opinion, it does.

25 Q. He is speaking about . . .

26 A. He says this:

27 "If the loss of revenue and goodwill were

28 "not so serious, it would be almost ludicrous

29 "to see car after car moving half-empty

30 "during critical freight car shortages,



1 "while little is done to induce shippers
2 "to load cars heavier."

3 This is the kind of principle he is talking about.
4 It is also my opinion.

5 Q. But you are speaking of LCL traffic,
6 and the situation regarding LCL traffic in Canada
7 and the United States is different. That is all I
8 want to point out.

9 A. Yes; well, you are pointing out the
10 difference in the United States, and I agree.

11 Q. You couldn't take this statement holus-
12 bolus and apply it to the situation in Canada?

13 A. No.

14 Q. Then, on "Recovery of Overhead Costs",
15 paragraphs 80 and 81 on page 22, for the purpose of
16 your submission, I will accept your proposition that

17 ". . . distribution according to the value of
18 "service . . . "

19 and ". . . distribution of overhead by a standard

20 "mark-up of the out-of-pocket cost incurred . . ."
21 is an acceptable method. But, having accepted that,
22 why do you depart from it when you come to captive
23 traffic, where you recommend applying maximum rate
24 schedules to the fully distributed costs, as set out in
25 paragraph 114.

26 A. Well, the competitive shipper needs
27 protection, and I base this on the public utility
28 theory and on the old common law that where a man pro-
29 vides a common necessity -- I am not a lawyer and I
30



1 don't know too much about it -- but Sir Thomas Aquinas
2 indicated that a just and reasonable price should be
3 charged where there was an actual monopoly to the
4 person using it -- that that monopoly should be
5 protected in some way.

6 Q. Isn't that just exactly the position in
7 Canada today? You say a just and reasonable price
8 should be charged, and under the Railway Act, the
9 Board has power to set just and reasonable rates.
10 Doesn't that follow the same principle?

11 A. It isn't exactly the same, because the
12 price in these ancient monopolies, in so far as it was
13 just and reasonable, was the cost to the producer plus
14 a fair profit. This was their just and reasonable
15 price.

16 Now, then, on any particular segment of
17 traffic the rate could be much more than the cost plus
18 a general return on the work done, or the investment.
19 So it isn't exactly the same as you have now.

20 Q. Well, I don't see the difference of the
21 situation.

22 A. Well, now it is the rate of return to
23 the railway as a whole and not the rate of return on
24 any individual traffic.

25 Q. But the Board of Transport Commissioners
26 has the power to fix just and reasonable rates.

27 A. Well, it has the power to do so, yes.

28 Q. Going along with your suggestion,
29 instead of putting in maximum rates on the captive
30



1 traffic based on fully distributed costs, why not leave
2 the matter to the Board of Transport Commissioners
3 to decide what are just and reasonable rates for that
4 traffic?
5

6 A. If it is just and reasonable rates
7 in the light of costs, I would tend to go along with
8 you.

9 Q. Costs would be one factor; but the
10 value of service would apply the same as you apply it
11 to the captive traffic.

12 A. One reason is that I think that rates --
13 and I have gone along all the way in this -- that
14 rates should all, in one way, be related to cost;
15 the rates should be cost-oriented; and the traffic
16 should be allocated to the real value of transportation
17 and not according to the free play of co-ordination;
18 and this is precisely the situation, I think, which
19 Mr. Stenason was talking about in the long extract
20 from the book. He thinks the same thing, evidently.

21 Q. Well, I may not agree with you, but I
22 believe that costs are one factor to be taken into
23 consideration in fixing rates, but I suggest on this
24 captive traffic there are other things that have to be
25 taken into consideration, and that the control of the
26 ceiling on these rates should be left to the Board of
27 Transport Commissioners.

28 A. That may well be the ceiling, but if
29 we look at the burden study, it may be less than the
30 maximum rate schedule we propose; it may be above.



1 Q. All those things come in, and they would
2 be lower.

3 A. I certainly think the maximum should
4 be cost-related; and if it was set by the Board it
5 would not necessarily be so.

6 Q. Then, these views which Mr. Brazier
7 expressed are the views of the Province of British
8 Columbia and not necessarily your views as an economist.

9 A. These are the views of British Columbia,
10 yes.

11 Q. Do you, as an economist, separate from
12 British Columbia, mean to tell this Commission that
13 it is your considered opinion on recommendation that
14 the railways should publish maximum rates on all captive
15 traffic based on fully distributed cost?

16 A. Yes, it is.

17 Q. You are quite . . .

18 A. It is my opinion, and it is Mr. Stenason's
19 opinion, from what I got on reading the book.

20 Q. Is that what it is based on?

21 A. No; I base it on my opinion, and I say
22 he backs my opinion up.

23 MR. McDONALD: Well, Mr. Chairman, the
24 next point is a new one.

25 THE CHAIRMAN: We will adjourn until ten
26 o'clock tomorrow morning.

27 ---Adjournment.
28
29
30

Hon C. P. McEwen

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No:

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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners Office,
Ottawa, Ontario, on the 9th
day of June, 1960.

COMMISSION

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Mr. F. W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Thursday,
June 9th, 1960

---On commencing at 10.00 a.m.

THE CHAIRMAN: Order, please.

WILLIAM HUGHES, continued

CROSS-EXAMINATION BY MR. McDONALD (Cont'd):

Q. Mr. Hughes, I would like to refer you to yesterday's transcript, Volume No. 78, at page 13791, line 11. I will read it to you. You will probably remember it. You say in your answer there:

"But, I do know that the coastal people no longer sell any dimensional lumber in central Canada, and the reasons -- and the traffic manager of MacMillan-Bloedell told me that it was the percentage increase that had taken them right out of the market and they could not get into it."

And then later you stated it was not Mr. Campbell but another traffic manager, on page 13793 --

"It was another traffic manager, at Vancouver Island plant who told me that."

Now, I would like to know the name of this man who gave you that information.

A. I don't know his name. He is the traffic manager at the Alberni plant of MacMillan-



1
2 Bloodell.

3 Q. I am informed there is only one traffic
4 manager of MacMillan-Bloedell, and that is Mr. Campbell
5 who is sitting in the room, and that your information
6 is not correct, that they are selling dimensional
7 lumber in the Toronto market now?

8 A. Yes. I wasn't trying to be misleading.
9 This was to the best of my belief.

10 Q. Mr. Campbell is in the room and I con-
11 firmed this statement with him, that they are selling
12 dimensional lumber in the Toronto area.

13 Then would you refer to Part 2 of your
14 submission, page 25, paragraph 92? You state:

15 "Cost-oriented rate making is im-
16 possible if rates are to have more re-
17 gard for the costs of a competitor
18 rather than of the railway itself."

19 Now, let's take a hypothetical case, where the cost of
20 a competitor is 40 cents per 100 pounds, the railway
21 variable cost is 35 cents per hundred pounds. Where
22 would you place the rate, as an economist?

23 A. Well, as a rate-making man, which I am
24 not, I would put it somewhere near the 40 cents, but I
25 certainly wouldn't put it over 40 cents. As an
26 economist, I wouldn't set the rate at all, I would let
27 the market find the rate. But I wouldn't have a
28 rate over the cost of the competitor, obviously.

29 COMMISSIONER MANN: Before we leave that
30 point, Mr. McDonald, if I may ask Mr. Hughes this



1 question. You would take into account, I suppose,
2 the service characteristics of the competing motor
3 transportation, would you not? For instance, if this
4 is a line-haul rate of the railways, the variable cost
5 of the line-haul movement was 75 cents, you would have
6 to find out whether there was any pickup and delivery
7 costs attached to that, and you would also want to
8 have a look and see what your speed of service was,
9 and then you would set your rate in the light of all
10 these facts?

11 THE WITNESS: Yes. I believe when the
12 railways set the piggyback rates they look at all the
13 service characteristics and set a rate at which they
14 think they are going to get the traffic, yes.

15 MR. McDONALD: Q. As to the so-called
16 captive traffic, would it not be a reasonable proposi-
17 tion from the economic standpoint to place the rates
18 at a level which will provide the free movement of
19 the traffic and maximize the railways' earnings?

20 A. Would it not be ---

21 Q. Would it not be a reasonable proposition
22 from the economic standpoint to place the rates at a
23 level which will provide the free movement of the
24 traffic and maximize the railways' earnings?

25 A. I think -- and again Mr. Stenason is
26 in agreement with me here -- I think that traffic
27 which is captive traffic should get the benefit of
28 any cost advantages that the railways get. It is
29 always at what the traffic will bear, trying to get
30



1 what the traffic will bear, but it will not get any
2 cost reduction through modernization or anything else,
3 they are always there, and I think there has to be a
4 ceiling on the captive traffic related to the cost of
5 providing the service, and this is in the interests
6 of the railways, too. I am not the only one who
7 thinks that. It is borne out in the British Columbia
8 position, and it is also in the book.

9
10 MR. McDONALD: Thank you very much, Mr.
11 Hughes. I realize that you and Mr. Guest and Mr.
12 Brazier have done a tremendous lot of work on this
13 brief, and no doubt the Commission will enjoy reading
14 it and studying it.

15 THE CHAIRMAN: Mr. Sinclair?

16 CROSS-EXAMINATION BY MR. SINCLAIR:

17 Q. Mr. Hughes, in answer to one of my
18 friends speaking to you about the British Transport
19 Act of 1953, you said it was a long time since you
20 have been there. I take it that you have been in
21 Canada, what, four or five years?

22 A. I have been in Canada three years and
23 in the United States two years.

24 Q. And in this period you have concentrated
25 on transportation economics in furtherance of your work
26 in British Columbia?

27 A. Among other things, yes.

28 Q. Before I put to you a number of questions
29 relating to your rate-making proposals, there are a
30 few points in Part 1 of your submission that I would



1
2 like to deal with, if you don't mind. So would you
3 turn to that?

4 In a number of these tables which you have,
5 for example, Tables 9, 10, and so on, you do not attempt
6 in any way to weight these by the commodity mix, do you?

7 A. These are weighted by the amount of tons
8 moving in each rate category. If you take the non-
9 competitive, for example, there are 100 tons, as an
10 example, moving at that; competitive there are two tons
11 moving at that; agreed charges, say, five tons. It
12 is all in the various tonnage in each group to give
13 a weighted average.

14 Q. What about the various types of traffic
15 within, for instance, agreed charge traffic, and there
16 is a large variation in the rates depending on the
17 type of the equipment they use, the loading characteris-
18 tics, and other things. You don't try to weight that
19 out?

20 A. No. These tables are not misleading.
21 They say exactly what they are supposed to say. To
22 get around to just exactly what type of commodity is
23 carried at agreed charges and split into groups and
24 length of haul, and so on, this is beyond the re-
25 sources of the province.

26 Q. So the relative position of British
27 Columbia could change materially by introducing a
28 factor for commodity mix?

29 A. No, I don't think so, because when you
30 get down to doing that you probably find you have no



1
2 carloads in the sample in the particular area, and
3 there may be actually a lot of traffic, and if you
4 look at it it is fairly small, but if you subdivide it
5 there is no traffic.

6 Q. Let's say, for example, there was a lot
7 of lumber moving in British Columbia relative to other
8 commodities, and there was a lot of coal moving in
9 Alberta relative to other commodities, do you not think
10 that would have an effect on your weighting under the
11 present rate structure?

12 A. I don't really see how it affects these
13 tables. If you do it for Canada as a whole you could
14 weight it like that, but if you take it for British
15 Columbia -- and this is what the tables do for the most
16 part -- then Alberta coal has not much influence on
17 the lumber. These tables do what they say they do,
18 and if you subdivide it you don't get the picture.

19 Q. You would agree that the value of trans-
20 portation in relation to the selling price has some
21 impact on the freight charges?

22 A. The value of transportation to the
23 selling price has an impact on the freight charges?

24 Q. Yes.

25 A. I don't know. There is an example in
26 here that I used.

27 Q. What is that?

28 A. Table 15-A. When you see lumber and
29 selling prices, you see the selling price in Winnipeg,
30 \$90 for hemlock, the freight charged to Winnipeg, \$32.20.



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TORONTO, ONTARIO

Hughes, cr-ex
(Sinclair)

13836

1
2 Now, then, since the prices of lumber dropped con-
3 siderably over \$20 in the last week or two, I under-
4 stand, then the freight charges certainly haven't
5 come down \$20. What I am saying is that the freight
6 charges are not flexible with the selling price of the
7 commodity.
8
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1 Q. That is true; but what I am saying to
2 you is that, for instance -- I don't know what 1,000 fpm
3 is -- but you mean the equivalent, whether the commodity
4 is of much lesser value; the impact of the freight
5 charges on a much lesser-value commodity has a less
6 effect.

7 A. Yes. If you were putting very high
8 freight rates on bricks, for example, they would only
9 move a few miles.

10 Q. That is about one ton -- a little over
11 a long ton?

12 A. Yes.

13 Q. Grain, hemlock and fir, a little over a
14 long ton -- do you know what it would be worth in the
15 Winnipeg market? You say \$90. Is that an actual
16 price?

17 A. It was when this table was constructed.
18 It is somewhat less now.

19 Q. Did you ever hear of any coal drawing \$90?
20 Let us take canal coal which, I think, is about the
21 most expensive; and I think it gets to about 45 tons
22 delivered in Canada; that is half the price. Do you
23 know of any coal . . .

24 A. Well, I know that coal freight rates
25 are much less than lumber freight rates.

26 Q. And you think that is a proper thing.

27 A. Well, this is probably the best position
28 the railways can get. They are trying to maximize
29 their rates and that is the way they do it for coal,
30 and are probably trying to get as much revenue out of it



1
2 Q. Do you think that is a proper thing?

3 A. From the point of view of the railway
4 it is a proper thing.

5 Q. And a necessary thing to enable the
6 railways to be financially strong, I suggest to you.

7 A. Yes.

8 Q. Now, just one little point on page 22
9 of part 1.

10 You are quoting the Henry study -- the
11 Henry and Associates study -- in the Rowell-Sirois
12 Royal Commission which was done, I think, about 1937 or
13 1938, and following that you have a paragraph:

14 "The railways were constructed in uneconomic
15 "locations and became instruments of national
16 "policy. Although these aspects were con-
17 "sidered by the Turgeon Commission, the
18 "disadvantages remain for the British Columbia
19 "shipper who must ship over a route to his
20 "market which was more costly in construction
21 "and more circuitive than it could have been ..."

22 And Henry and Associates, in the quotation
23 immediately preceding that, made specific reference to
24 the line between Central Canada and the Maritimes.

25 I suppose you quoted this in support of your
26 statement of circuitry, did you?

27 A. Just a second. Well, that is one thing,
28 with the Inter-Colonial Line.

29 The other thing:

30 ". . . as an alternative, a connection between



1 "Central Canada and British Columbia could
2 "have been provided by a line running from
3 "Sault Ste. Marie through Northern Michigan,
4 "Minnesota, Manitoba and the Canadian Northwest..."
5 which indicates that the line is not a direct line; it
6 is not as short as it could have been.
7

8 Q. Let us look at Canadian Pacific across
9 the country. Canadian Pacific has the short line
10 between the Prairies and the B.C. Coast; is that correct?

11 A. Yes --in Canada, yes.

12 Q. Do you get from Winnipeg to Vancouver
13 by the United States?

14 A. No; but you can get a shorter line
15 from Sault Ste. Marie; this is the way the pipeline
16 goes.

17 Q. Let us not get any more confused about
18 what is west and what is not west. I am speaking of
19 the Prairies now. The short route from the Prairies
20 to Vancouver -- from Winnipeg and Regina and all the
21 way along the line -- the short route is the Canadian
22 Pacific route rather than by Edmonton.

23 A. What I am trying to say is that the short
24 line route was evidently, on this opinion, through the
25 United States. I am going by what he says. I have
26 never studied mileages and distances, but I think Mr.
27 Henry knew what he was doing.

28 Q. That is one of the difficulties, that you
29 must analyse statements a little bit, because quite often
30 people fall into error and somebody takes something out



1 of these Royal Commission reports that is probably a
2 myth and blow it up as though it was a fact.

3 Let us take a look at this. You have agreed
4 that the Canadian Pacific has the short route from
5 the Prairies to the Coast?

6 MR. BRAZIER: Part of the Prairies. There is
7 Saskatoon.

8 MR. SINCLAIR: Yes; I will take Saskatoon --
9 the mileage Saskatoon, Calgary to Vancouver as
10 against Saskatoon, Edmonton, Vancouver.

11 A. If you don't mind, I am looking into
12 this.

13 Q. Let us go to the next place, and that is
14 from Central Canada. Have you ever checked the
15 mileage to Winnipeg via the Detroit gateway from
16 Eastern Canada?

17 A. No, I haven't.

18 Q. I suggest it is longer. Have you ever
19 checked the mileage via Sault Ste. Marie to Winnipeg?

20 A. No.

21 Q. From Toronto I again suggest that it
22 would be longer. Then, let us go down to the Maritimes.
23 Have you ever analysed the railway routes to the
24 Maritimes? That has been done, and it is published.
25 I wonder why you didn't take a look at that. I think
26 you will find, if you do, Mr. Hughes, that the Canadian
27 Pacific has the short line to the Maritimes through
28 Maine. Have you ever checked that?

29 A. No, I haven't checked on it.
30



1
2 Q. So, you see, it could well be that in
3 1927 when somebody was reaching for the route to assist
4 the Maritime Provinces, they put it on railway mileage
5 of one single route; but that wasn't the route that
6 governed the rate-making. Did that ever occur to you?

7 A. But this isn't entirely true about
8 Canadian Pacific; it is not true about Canadian
9 Pacific to the Maritimes, and it is not . . .

10 Q. Do you consider that the long route sets
11 the rate in Canada?

12 A. No, it is the short route that sets the
13 rate in Canada.

14 Q. Then, how is British Columbia disadvantaged
15 by more circuitous railway lines than it could have
16 been?

17 A. Well, it is fairly obvious that if the
18 short line is charging short line mileage and the long
19 line is charging short line mileage, then the long line
20 is charging at below cost. If the one line is right,
21 then the other one is higher than cost. This is a
22 dissipation of economic strength.

23 Q. You think railways could set rates on
24 the variable cost . . .

25 A. No, I don't.

26 Q. . . . of the short line mileage, or do
27 they put it at something over the variable cost of the
28 short line mileage?

29 A. I don't know, because I have no access
30 to the cost information.



1 Q. Well, you really have no support for the
2 statement you have made except Mr. Henry, and you haven't
3 analysed that to support it.
4

5 A. Yes; I have read it very carefully,
6 and it seems to me that Mr. Henry knew what he was
7 talking about or he wouldn't have written it in a Royal
8 Commission report unless the statement had some
9 foundation.

10 Q. That is quite a statement, that it wouldn't
11 be written in a Royal Commission report unless it had
12 some foundation. Are you going to say that just
13 because it is in a Royal Commission report, that makes
14 it . . .

15 COMMISSIONER MANN: I think he is talking
16 into the future, Mr. Sinclair!

17 MR. SINCLAIR: He must be.

18 THE CHAIRMAN: Or the past.

19 MR. SINCLAIR: Let us take a look at the
20 other part of it. I think you said to my friend, Mr.
21 Cooper, that the railways may be used as instrumental
22 for national policy. You agreed to that.

23 A. Yes.

24 Q. If I put it another way, I take it you
25 would agree that the railways have been used for
26 national policy as distinct from being instruments
27 of national policy.

28 A. I fail to see any distinction.

29 Q. You wouldn't agree, from your study of
30 Canadian rates and the use of these rates, that the rate



1 structure has been used for purposes of economic
2 advantage to given areas.

3 A. Oh, I certainly know that is the case,
4 especially in the Prairies.

5 Q. For instance, an example is the bridge
6 subsidy, isn't it?

7 A. Yes; that gives a great advantage to
8 Ontario.

9 Q. And the Maritime Freight Rates Act is
10 another example, is it not?

11 A. Yes.

12 Q. And the removal of the mountain differen-
13 tial might be another example?

14 A. Well, I don't think you are right.
15 You see, you pick out two examples there where the
16 railways don't suffer any loss of revenue. What I am
17 talking about is burden on the shippers such as through
18 the statutory grain rates, or probably keeping a line on
19 that is uneconomic and it is not in the national interest
20 to abandon it. Those are the things I am thinking of.
21 You mention the mountain differential and that is a
22 different matter completely.

23 Q. What you had in mind were burdens that
24 were placed on the railways by an obligation under a
25 statute.

26 A. Yes; and other shippers pay for it.

27 Q. Well, we will discuss that latter part
28 later. It would still be an obligation where they were
29 being used as instruments for national policy, or as
30



1 instrumental, no matter who paid for it, would it not?

2 A. Well, the railways seem to assume all
3 sorts of obligations that nobody tells them to do.

4 Q. Let us take the statutory grain rates.
5 They are not assuming those without anybody telling them
6 to do so.

7 A. That is one; but you mentioned the
8 mountain differential. The C.P.R. doesn't want to get
9 out of that, and I don't know that -- officially, I
10 don't think you were told to reduce the rates in the
11 mountains.

12 Q. The Canadian Pacific thought there was
13 justification for that, Mr. Hughes, and after full
14 inquiry, they determined that there was justification
15 for it. There was a judicial inquiry into that, wasn't
16 there?

17 A. Well, that is one case of statutory
18 grain rates, and there are a few items which are in the
19 actual tariff; and yet there are many items in the
20 tariff where the railway thinks there is an obligation
21 to carry this stuff.

22 Q. You had quite a little discussion here
23 about corn flakes and things like that. Now, corn
24 flakes and things like that are not under the tariff at
25 all.

26 A. I was going on the word of Mr. Edsrorth.

27 Q. He wasn't talking about corn flakes; he
28 was talking about oatmeal.

29 I am glad you brought this up. Do you think
30



1 that, under the obligations of the railway to carry
2 grain and flour at a fixed rate, they could carry the
3 by-products of the milling process for a higher rate
4 and still not practise unjust discrimination?
5

6 A. I can't see that any Board would rule
7 anything as indiscriminatory if the rate was set below
8 the out-of-pocket cost -- I can't see how any Board
9 would call it unjust discrimination. They couldn't
10 force the carrier to carry at a less cost than that.

11 Q. Well, let us take it, for example, that
12 they have by statute fixed the rate for goods at the
13 moment.

14 A. That is statutory.

15 Q. It has no reference to just and reasonable-
16 ness whatsoever.

17 A. That is a statutory agreement.

18 Q. It is a statutory rate under the Railway
19 Act today, isn't it?

20 Are you suggesting to this Commission that the
21 railways could carry the by-product of the milling
22 process at just and reasonable rates notwithstanding
23 the statutes? Is that your suggestion?

24 A. That is not my suggestion at all.

25 Q. Then, why did you mention the fact that
26 the railways, without any obligation, had extended the
27 statutory rates to milled products?

28 A. It seems to me that the railways assume
29 that obligation without any statute to say that they do
30 it. The railways do it voluntarily; and I am sure



1 nobody has told them to do it; and I don't think there
2 is anything in the Railway Act that says they have to do
3 it.

4 Q. You are saying -- it is your inter-
5 pretation . . .

6 A. That is my interpretation. I am not a
7 lawyer, but that is my interpretation.

8 Q. Your interpretation would be that the
9 railways could put everything except grain and flour --
10 that is, the by-products -- on a just and reasonable
11 level of rates tomorrow by filing a tariff.

12 A. That is my interpretation of the legal
13 position, yes.

14 Q. Thank you.

15 A. Am I right?

16 Q. Did you ask Mr. Brazier if you were
17 right? I would like to have Mr. Brazier's answer on
18 the record.

19 THE CHAIRMAN: I think we can excuse him.

20 MR. BRAZIER: We were talking about beet
21 pulp.

22 MR. SINCLAIR: My friend wants to discuss
23 beet pulp as being different from by-products in the
24 milling process in regard to animal feeds. I would
25 be glad to discuss that with him.

26 Q. Now, Mr. Hughes, I refer to one little
27 matter in Part 1 that is in the area, in my respectful
28 submission, of myth, and we will discuss this for a
29 moment. It is this:



1 "British Columbia pays the freight both ways."

2 THE CHAIRMAN: Which page is that, Mr.
3 Sinclair?

4 MR. SINCLAIR: Page 25.

5 Q. It is described as a paradox. Just let
6 us take a look at the products moving into British
7 Columbia. The shippers of these commodities must
8 meet . . .

9 A. Which commodities are you talking about?
10 If you are talking about pipe and steel, that is
11 correct.

12 Q. Let us take bottles.

13 A. Bottles from California as against
14 Alberta bottles, yes. Pipe and steel; I don't know
15 of any other article.

16 Q. Automobiles?

17 A. No, not automobiles. You can't say
18 that an American automobile is the same as a British
19 automobile on a Volkswagen or anything else. You are
20 talking about two different products.

21 Q. Have you never heard of compact cars
22 which are put out by the Canadian automobile industry?

23 A. We get them; we don't get too many in
24 Vancouver.

25 Q. You get quite a few British cars and
26 European cars?

27 A. Yes; the freight is very low from
28 Britain.

29 Q. So that the freight is very low from
30



1 Britain, and anyone who wants to sell in that market must
2 meet this competition.

3 A. I don't think that is the case. I don't
4 think that price competition is too important in the
5 car market. I think the competition would be more on
6 what the person wants to buy in a car. He cannot
7 see the price competition; it is the look of the
8 car and the advertising that makes the demand inelastic;
9 it is not really price competition.

10 Q. In so far as there is a market, the
11 competition is the cost . . .

12 A. For skelp and pipe and bottles, yes.

13 Q. And whatever other items there are . . .

14 A. None.

15 Q. Just a moment. In so far as there is
16 market competition in the cost from foreign markets,
17 either the United States or from overseas, the eastern
18 Canadian producer meeting that market competition
19 would have to absorb the freight rate, would he not --
20 to meet that competition?

21 A. If the demand in British Columbia is
22 completely elastic, such as in the case of skelp, it
23 doesn't matter whether he buys skelp from here or whether
24 he buys it in England or Belgium -- and pipes and
25 bottles; the demand would be elastic. But when you get
26 into cars, refrigerators, radios -- things like that --
27 the demand isn't elastic and we have to bring things in
28 under a tariff barrier; there are not many alternative
29 sources of supply, and the freight rates are quite high.
30



1
2 Q. Let us take buses from Japan and buses
3 from Can-Car in Montreal. There was a factual
4 investigation of the situation that existed in Vancouver.
5 Do you remember that one?

6 A. No.

7 Q. You don't know about the Japanese buses
8 and the B.C. Electric's negotiations for Japanese buses
9 against buses from Can-Car, Montreal?

10 A. I have heard it spoken about, but I don't
11 know anything factually. I don't know too much about
12 it at all.

13 Q. Well, now, let us take another that you
14 would know something about. Let us take dairy products
15 from Red Deer, Alberta, to Vancouver, in competition
16 with dairy products in the lower Fraser Valley.

17 A. That is a "funny" example of a dairy
18 product. It is one of the extreme examples; but you
19 certainly don't get fresh milk from Alberta.

20 Q. Let us take the example I gave you.
21 Who would pay the freight charges on the dried milk
22 from Red Deer into the British Columbia market in
23 competition with the dried milk from the various plants
24 that are scattered throughout the lower Fraser Valley?



1 A. Well, as I said, Mr. Sinclair, you have
2 not really got a good example product there. Dried
3 milk comes in all kinds of fancy packages with price
4 differentials for the same weights and probably just the
5 same milk, for all I know, but it is a differentiated
6 product, and people will not switch from one brand of
7 dried milk to another, whatever the price difference,
8 within a certain range. Then there is just monopolis-
9 tic competition. You are not talking about milk or
10 eggs, that is a different situation.

11 Q. Let us take condensed milk. If Carnation
12 snips condensed milk from Alberta and also manufactures
13 condensed milk in British Columbia, who would pay the
14 freight rates on the movement from Alberta, the pro-
15 ducer?

16 A. If Carnation made milk in Alberta and
17 made it in British Columbia and sold the milk in British
18 Columbia, who would pay the freight rates? That is a
19 very hypothetical situation, but I would say that the
20 consumer paid the freight rate because again the demand
21 is inelastic. You are looking at two types of
22 Carnation, you are looking at Carnation milk and all
23 other kinds of canned milk and assessing it with dried
24 milk as well. You are not taking a very realistic
25 view of dairy products.

26 Q. Let us get some economic principles
27 settled first. Maybe that is what you would like to do.
28 Would you agree with this, that a producer would pay the
29 freight rates in the following circumstances: first,
30



1
2 if there is competition from other sources of supply
3 in the final market and the price in the final market
4 is set by the alternative product. Do you agree with
5 that?

6 A. Where there is demand in the final market
7 it is elastic, that is what you are saying?

8 Q. I am just saying that if there is com-
9 petition from other sources of supply in the final
10 market, and the price at the final market is set by
11 the alternative production ---

12 A. Then the consumer pays?

13 Q. Then the producer pays?

14 A. The producer pays the freight. Yes,
15 this is the reverse situation where we are shipping
16 to Ontario.

17 Q. Let me give you a second principle and see
18 if you agree with that. If the demand for the com-
19 modity in question is price-elastic, that is, where a
20 small increase would drop sales significantly, then
21 the producer bears the freight rate there, too, does
22 he not?

23 A. Where the demand is inelastic?

24 Q. No, elastic, price-elastic?

25 A. Then it is the producer who takes the
26 freight rate, yes.

27 Q. The third one, where the producer would
28 take it, would be where the demand is price-inelastic,
29 but that the alternative source of supply is price-
30 elastic; is that correct? That would be the third?



1
2 A. That is correct, yes.

3 Q. Now, those three basic principles would
4 determine, and the cost of them, would determine whether
5 the producer or the consumer paid the freight rate; do
6 you agree?

7 A. Yes. Let me make it clear before you
8 go on, that we are talking of a short run position,
9 because in the long run everybody knows that the con-
10 sumer has to pay the freight rate. Otherwise, where
11 does the farmer and so on get his price from? He
12 has got to live, and of course his profits come from
13 the commodity he sells. So we are talking about a
14 short run situation here.

15 Q. Yes, in the long run ---

16 A. In the long run the consumer ---

17 Q. Pays freight on everything, on ships and
18 everything?

19 A. Exactly what it says in the brief here.

20 Q. Yes, that is what you say. I am dis-
21 cussing what may be termed the relatively short term
22 position.

23 COMMISSIONER MANN: Are you leaving this
24 point now, Mr. Sinclair?

25 MR. SINCLAIR: No, I am going to be a little
26 while.

27 COMMISSIONER MANN: I just want to clarify
28 your first premise there. I think this was where the
29 producer pays all the freight, or would you like to
30 modify that and say that he pays all or some of the



1 freight or pays the freight to the extent necessary?

2 MR. SINCLAIR: Well, he pays freight to
3 the extent necessary because there is an interplay.

4 COMMISSIONER MANN: Yes.

5 MR. SINCLAIR: Of forces, but what I have
6 in mind is the suggestion, Mr. Commissioner Mann, that
7 someone says they pay the freight but they mean the
8 pay the freight necessary.

9 COMMISSIONER MANN: I just want to make
10 that clear. It is not an all-inclusive statement?

11 MR. SINCLAIR: Oh, no.

12 Q. So that, Mr. Hughes, where you have a
13 product that controls the Canadian market -- use a
14 product that controls the Canadian market -- then the
15 consumer would pay the freight; correct? For instance,
16 canned salmon?

17 A. If it is a monopoly, you mean, by saying
18 "controlling the market"?

19 Q. Yes, its production is such that it
20 so overshadows the market that if you want canned
21 salmon you buy B.C. canned salmon; isn't that correct?
22 What other kind of salmon do you buy?

23 A. If you are talking about a monopoly
24 situation, then quite easily monopolists may bear the
25 freight rate. If you want to get into theoretical
26 economics I can give you very good examples of that.

27 Q. Let us take canned salmon.

28 A. But in a monopoly situation you are
29 talking about something else, and very easily the
30



1
2 producer may pay the freight rate because he may be
3 making just as much revenue as he had before the
4 freight rate increased.

5 Q. But dealing with canned salmon, if you
6 want to buy it in Canada, you buy B.C. canned salmon;
7 correct? What other kind of canned salmon can you
8 buy?

9 A. You can buy tunafish.

10 Q. I am taking canned salmon. There is a
11 difference.

12 A. Very close competition.

13 Q. I said, there is a difference between
14 tuna and salmon, is there not? It looks different,
15 it tastes different?

16 A. I don't know; I like fresh salmon.

17 Q. You only eat fresh salmon. That is
18 because you live in Vancouver.

19 A. I would say there is monopoly, there is
20 monopoly in the strict sense of the word. There is
21 only one kind of canned salmon, but of course there
22 is fresh salmon or tunafish competing, other products.

23 Q. You would not believe it that on canned
24 salmon the consumer pays the freight; you do not think
25 you could go that far?

26 A. If the demand was inelastic, I would
27 say he pays the freight.

28 Q. If the demand was inelastic?

29 A. If the demand for the canned salmon
30 was inelastic, then I would say he pays the freight.



1
2 Q. Say the difference was a cent a can,
3 would you say that a cent a can would make the demand
4 price-elastic?

5 A. For what kind of salmon?

6 Q. Can of salmon, the usual kind they pack?

7 A. The very fact that there is a brand
8 name on it, it is not a standard product, it means it
9 is inelastic. You do not get branded products sold
10 with names on and everything when it is completely
11 elastic. It is not like selling wheat. People
12 put a brand on it which makes it inelastic, as it is,
13 in varying degrees, and it is well accepted.

14 Q. Do you know much about the fish pro-
15 cessing industry in Canada? Do you know when the
16 brand names are put on them?

17 A. It is just like even if it is one firm,
18 even if it is the same salmon, or anything like that,
19 it does not matter: the firm is trying to differentiate
20 its products, the same way as the railroads differen-
21 tiate the same product.

22 Q. Let us take another one you have dis-
23 cussed and we will be discussing it some more, and
24 this is something that you have knowledge of, that is,
25 the lumber industry of British Columbia. On select
26 and large timbers, would you say that the B.C. in
27 shipping those paid the freight, the B.C. producer
28 in the Canadian market?

29 A. Yes, we have to compete with Oregon
30 and Washington, I believe, in that market.



1
2 Q. You do? You have to compete with
3 Oregon and Washington on fir, large timbers, selects?
4 Let us take a position, Saskatoon?

5 A. Not in Saskatoon, no.

6 Q. Then any shipments to Saskatoon, you
7 would not pay the freight there, the B.C. producer;
8 correct?

9 A. No, not where there is a monopoly posi-
10 tion.

11 Q. Would you pay them, for instance, in
12 Edmonton?

13 A. No, but we would in the European market
14 or the American market, or eastern Canada market, or
15 midwest.

16 Q. You would pay it in the eastern Canadian
17 market, would you?

18 A. Yes.

19 Q. The B.C. producer would?

20 A. Yes.

21 Q. What did you mean, then, when you told
22 my friend Mr. Cooper that lumber shipments in Canada
23 would be captive shipments, that is, that there would
24 be no alternative transportation source?

25 A. If there is no alternative transport
26 other than rail, then it would be in my mind a captive
27 shipper. I realize that there are other means of
28 transportation to the eastern market. I never said
29 there was not. So I would not think that would be a
30 captive shipment.



1
2 Q. Then you told my friend Mr. Cooper that
3 lumber would be captive. Now you want to alter it.

4 A. I was using lumber, thinking of all
5 lumber, but if you want to differentiate the different
6 markets, of course, you get water competition, as we
7 know, into eastern United States, and probably there
8 is some of it to eastern Canada, a little bit.

9 Q. As I understand it, about 25 per cent
10 of all United States shipping of lumber in 1959 was
11 to the east coast of the United States by water, and
12 that controls the lumber rates throughout the United
13 States and throughout Canada. You disagree with that?
14 Have you studied the level of freight tariffs?

15 A. It seems to be a very peculiar kind of
16 control. I am not sure what the rate is to New York,
17 but I think it is 176, or something -- 147 to New York,
18 I understand, and it is 140 to Winnipeg. So I do not
19 see how the New York rate is controlling the Winnipeg
20 rate.

21 Q. You do not understand that?

22 A. I cannot understand it.

23 MR. BRAZIER: Nobody does.

24 THE WITNESS: You know more about it than
25 I do, obviously.

26 MR. SINCLAIR: Q. Then, Mr. Hughes, let
27 us take shipments from the Kootenays of lumber into
28 western Canada. Do you think they are captive traffic
29 for the railways?

30 A. I think so, yes.



1
2 Q. Have you heard of any truck competition
3 on lumber?

4 A. It depends on how far east you are
5 moving it from the Kootenays out to eastern Canada.

6 Q. I said to the prairies?

7 A. To the prairies I know there are some
8 rail competitive rates on that.

9 Q. So what this comes down to, I take it,
10 is that lumber in some parts would be captive traffic
11 to the railway and in other cases it would be non-
12 captive?

13 A. That is right, yes.

14 Q. And where it was captive, you would say
15 that the freight rates would be passed on to the con-
16 sumer, but where it was not captive freight rates would
17 be paid by the producer? Would you go that far?

18 A. No, I would not go that far. You are
19 talking now about carrier competition. Before you
20 were talking about market competition. The very fact
21 that there is carrier competition does not make a
22 commodity elastic in the market.

23 Q. Does market competition have any effect
24 on freight rates, that is the point?

25 A. It has an effect on who pays the freight
26 rate, yes.

27 Q. It has an effect on ---

28 A. Who pays the freight rate.

29 Q. Does it have any effect on the level of
30 the freight rate?



1
2 A. I can think of obvious examples, yes.

3 Q. Then, when you determined what was
4 captive and non-captive traffic with the railways,
5 why did you exclude market competition as a factor in
6 determining your situation as to what would and what
7 would not be captive traffic?

8 This is your own definition, paragraph
9 111 of Part 2?

10 A. If you are talking about captive
11 traffic which is captive to the railways, how can
12 you bring market competition into that factor? You
13 see, the upper limits for railway rates would be
14 either market competition or carrier competition, so
15 why would you want to define captive shippers as
16 anything to do with market competition?

17 Q. In any event you say that market com-
18 petition can have an effect on the level of the rate,
19 but notwithstanding this you do not give any weight
20 to it in determining what is the captive traffic
21 for your rate-making proposal? I just want to make
22 this clear. We will discuss the implications of it
23 later, but I just want to make it clear.

24 A. No, I did not, and, as I say, the
25 reason is that once you assume that market competition,
26 if there was a good degree of market competition and it
27 was there, then this would provide the upper level of
28 railway rates.

29 Q. That is the reason you exclude it?

30 A. Yes.



1
2 Q. Now, I want to come back to the point I
3 followed off on before I got into another subject,
4 and that was that British Columbia pays the freight
5 both ways. I just have one other example I want to
6 put to you and to which I want you to give some
7 thought, and that is apples, peaches and pears from
8 the Okanagan Valley to Alberta. Who pays the freight
9 on those -- cherries?

10 THE CHAIRMAN: I think that question should
11 wait until Mr. Frawley gets here.

12 THE WITNESS: I understand there is a great
13 deal -- I don't know much about it -- of market com-
14 petition from Washington, probably Idaho, and so on,
15 so I should think the producer in the Okanagan bears
16 the freight rate.

17 MR. SINCLAIR: Q. Now, Mr. Hughes, you see,
18 this Commission has been told on a number of occasions
19 that the people in the prairies pay the freight on
20 everything they ship and on everything they receive.
21 Now, do you say the same thing? You not only ship
22 to the prairies but you receive from the prairies?

23 A. There is a difference in some phases of
24 it and what I say. I say not on everything, and I
25 myself separate it into short-run and long-run
26 positions, and I did not say on everything either.

27 Q. You did not?

28 A. No, I did not say on everything.

29 Q. Both on the things sold and on the
30 commodities imported, there is no exception in it?



1
2 A. Then it is not everything. In the
3 discussion this morning I think it makes it quite
4 obvious I am not taking this as an overall position,
5 as the prairies do.

6 Q. The disadvantage that British Columbia
7 may have in regard to this, is, I suggest to you,
8 restricted to the situation where they are forcing
9 into a market against an alternative source of supply
10 or where they are forcing into a world market and
11 their distance from the world market is such as to
12 make the transport charges in Canada significant?

13 A. I agree with you, yes, and this is what
14 I am saying in my brief.

15 Q. Furthermore, as an economist, you would
16 agree that a very intensive study of incidence must
17 be made before you can ever say with assurance that
18 on a given shipment at a given time, where the inci-
19 dence of freight charges may lie, leaving aside this
20 world market situation?

21 A. I do not say you need a very intensive
22 study to find out the values of the elasticities.

23 Q. You don't think it is difficult to find
24 out the elasticities of the product price?

25 A. I know it has been done in very many
26 cases without too much -- I mean, it is not a year's
27 job or anything like that. It is not a very big job.

28 Q. Have you ever done it?

29 A. I find out price elasticities, yes.

30 Q. In Canada with the tariffs and alternative



1 sources of supply?

2 A. Not for any particular products in Canada
3 I have not, no.
4

5 Q. Would tariffs have something to do with
6 it?

7 A. Tariffs would have something to do with
8 price elasticities. In a market where there is a
9 tariff against it, then the price tends to become in-
10 elastic.

11 Q. There is a very large number of considera-
12 tions that determine, even in an eternal market like
13 Canada, where the incidence of freight rate charges
14 may lie, including alternative sources of supply,
15 elasticities of price, of demand?

16 A. Oh, yes.

17 Q. And tariffs?

18 A. Yes.

19 Q. And if there is a disability in regard
20 to B.C. producers and some markets, it could be completely
21 eliminated by tariff action?

22 A. Certainly, yes.

23 Q. On the top of page 26 you have an example
24 of a comparison between lumber from New Brunswick to
25 Ontario against lumber from British Columbia to Ontario.
26 This Commission has had a submission made to it con-
27 cerning what has been described as "threshold" -- put
28 the maritimes on the threshold of central markets
29 transportation free. Do you know that submission?

30 A. I don't know the submission, no.



1 Q. As I understand what it means, it means
2 that by subsidy the full transportation costs from
3 points in the maritimes to the threshold of the central
4 Canadian market would be taken care of.

5 A. It is a very interesting submission.

6 Q. It has been made to this Commission.

7 A. I didn't know that.

8 Q. You didn't know that. Then would you
9 consider making a submission to this Commission that
10 you also be put at the threshold of your market in
11 central Canada?

12 A. Oh, I don't think two wrongs make a right.

13 Q. So you are saying that the other submis-
14 sion is wrong; correct?

15 A. I don't know who wrote it or who put it
16 in, but there may be very good reasons for it, yes;
17 but always the effect on other producers trying to get
18 into the market must be thought of. From British
19 Columbia's point of view it is obviously wrong.

20 Q. But if I suggest to you, Mr. Hughes,
21 that if you wanted to assist the B.C. industry or
22 industry in any section of the country, that the use
23 of freight rates as a measure of assistance should be
24 resorted to only when there is no other practical ad-
25 vantage, and by that I mean where the costs or adminis-
26 tration or other things would make the use of an alter-
27 native method of assistance preferable?

28 A. Yes, we look at a modernization programme
29 and cost reductions, and so on, in the Canadian railways
30



1
2 as our long-term solution, and we do not look for any
3 short-term artificial solutions, unless there is very
4 good urgent need for it in that particular time.

5 Q. But my question to you, Mr. Hughes,
6 was that if assistance is to be given to an area --
7 for instance, Ontario or British Columbia, for some
8 reason -- that the last place that assistance should
9 be given is through the freight rate structure; that
10 all other alternative means should be considered and
11 should be used in preference to the use of the
12 freight rate structure, because of the artificiality
13 that subsidies through the freight rate structure
14 introduce. Would you agree with that?

15 A. There may be implications that I cannot
16 speak about in the position in British Columbia, but
17 speaking for myself I would agree with you.

18 COMMISSIONER MANN: Mr. Sinclair, may I
19 ask Mr. Hughes something about the answer.

20 Why, Mr. Hughes, do you think that freight
21 rates should be the last field that should be touched
22 if assistance were to be given, say, to use Mr.
23 Sinclair's example, to Ontario or British Columbia?
24 What other fields would you think are more suitable
25 for the distribution of assistance that may be
26 necessary?

27 THE WITNESS: I can only speak for myself.

28 COMMISSIONER MANN: I understand that.

29 THE WITNESS: The only reason I do not like
30 to see subsidies in the freight rate structure is because



1
2 it cuts out the economic coordination. Probably the
3 trucker should be carrying traffic on a relative cost
4 basis, but if the railway gets subsidized on any
5 particular traffic -- and I think the truckers had a
6 case there in the maritimes -- then obviously truckers
7 cannot easily get into that particular market.

8 That is why, I think, if you are going to dis-
9 tribute it, if it is necessary for people in the
10 maritimes or any affected place or industry, then I
11 think that the subsidy, if possible, should be paid
12 to those people, and that is a very difficult thing
13 to administer.

14 COMMISSIONER MANN: Your concern with a
15 subsidy, as I understand it, distributed through the
16 freight rate structure, is that it obscures the pricing
17 mechanism as between different carriers?

18 THE WITNESS: It keeps an awful lot of inef-
19 ficiencies in the transportation system. We want to get
20 these cost reductions under way, and let us get some ad-
21 vantages from modernization and techniques, and so on.

22 COMMISSIONER MANN: Let us take the case of
23 distributing assistance via the tax structure whereby,
24 say, a carrier is given a tax exemption. Would that tend
25 to obscure the pricing mechanism as well?

26 THE WITNESS: I think it is a hidden subsidy
27 to the particular carrier, yes.

28 COMMISSIONER MANN: So that you would have the same
29 objection to it as you would have to direct subsidy given by
30 way of the freight rate structure, because it obscures



1 the pricing mechanism?

2
3 A. Yes, if the railway has to do something
4 because of national policy and it gets a subsidy for
5 that, well, all right, and you can put the subsidy
6 either into the railways or into other shippers or
7 probably both, if we permit that; but if there are no
8 national obligations and you want to put a subsidy into
9 the railways, to put it into the income tax structure
10 it is just as bad to me as putting it anywhere else
11 in the freight rate structure.

12 COMMISSIONER MANN: Thank you very much.

13 MR. SINCLAIR: Q. Your position, I take it,
14 Mr. Hughes, is that the railways should stand on their
15 own feet, and if they are required to carry traffic
16 at unremunerative rates for national policy reasons,
17 that they should be compensated for that so that
18 their proper financial position in relation to work
19 done will come out at the end of the year?

20 A. That is right, yes, and if any other
21 shippers should also bear the same kind of burden with
22 the railways, they then should also have a reduction
23 in their tariffs to make things the same as they would
24 be under a normal competitive situation.

25 THE CHAIRMAN: Five minutes, Mr. Sinclair.

26 ---Short recess.



1 THE CHAIRMAN: Order.

2 MR. SINCLAIR: Q. Mr. Hughes, in your
3 brief, but to a greater extent in answer to some of
4 my friends, you had some harsh things to say about the
5 horizontal percentage increase method to take care of
6 adjustments, cost of transportation in general revenue
7 cases. You recall what you said in "the transcript and
8 in your brief. It starts at page 26 and goes on for
9 a number of pages. You recall "outmoded", "bygone" --
10 various words like that?

11 MR. BRAZIER: They are not harsh words.

12 THE WITNESS: I have some more.

13 MR. SINCLAIR: Q. Well, let's have them
14 all, Mr. Hughes.

15 A. I think the provinces over the years
16 have said everything that can be said about them, but
17 nothing has been done about them, except what we hope
18 to push a little bit further along.

19 Q. I quite agree with you that over the
20 years the provinces have said everything that can be
21 said about them, and I quite agree that what the
22 provinces might have wanted to be done has not been
23 done. Has it ever occurred to you that there may be
24 good and sufficient reason for not having done anything
25 about them?

26 A. It is very convenient for the railways
27 to do it; it is administrative ease. Apart from
28 that reason, I can't think of any other reason.

29 Q. In other words, you don't think the
30



1 Board of Transport Commissioners, in weighing all the
2 problems and necessities in handling these matters,
3 have approached that problem with the understanding
4 and knowledge that, for instance, you would have on
5 the matter?

6 A. My reading of the general cases is that
7 the Board of Transport Commissioners are not too keen
8 on them either, but it is administrative ease to do
9 this rather than economic.

10 Q. That is the reason that the Board have
11 used it?

12 A. Yes; it has continued.

13 Q. It is because it is easy?

14 A. Not just because it is easy. It is
15 easier than possibly any other method.

16 Q. Is that the reason they have gone along
17 with horizontal percentage increases -- ease of
18 administration?

19 A. Yes, as far as I can see.

20 Q. Have you studied transcripts on the
21 matter?

22 A. I have studied the judgments, and I
23 think I have seen one or two transcripts, yes.

24 Q. Have you ever taken the trouble to
25 read submissions of various people on behalf of Canadian
26 Pacific on this matter?

27 A. I have seen some.

28 Q. Have you studied them carefully?

29 A. No.
30



1
2 Q. Have you ever seen suggested ease of
3 administration for the reason that the Board should use
4 horizontal increases?

5 A. No, I haven't seen that. There probably
6 would be a lot of other reasons put up by Canadian
7 Pacific, but I don't think that would be one of them.

8 Q. As your alternative to the percentage
9 increase method, you suggested that the increased cost
10 be ascertained, these be dissected, and the increases
11 be applied where the increased cost imposed a burden on
12 the railways.

13 A. That is right.

14 Q. And both Mr. McDonald and one other
15 counsel who discussed it with you allowed you to take
16 an easy example, allowed you to take an increase in
17 wages. I would like to ask you to take one that is
18 not quite so easy, and that would be an increase in
19 income taxes. How would you dissect that and apply that?

20 A. I would use the type of increase in
21 income tax, I would take the multiple regression
22 analysis on it, find out the percentage variable --
23 line haul -- prorated with the terminal cost and the
24 variable section prorated with the line terminal to
25 increases on the out-of-pocket costs. Now, --

26 Q. Before you leave the variable cost,
27 you say you would ascertain the variable portion of
28 investment.

29 A. Of income tax.

30 Q. Isn't income tax a factor in investment



1 cost? You determine the variable portion of
2 investment. Is that not so? Where do you think the
3 income tax is picked up in a cost study? Maybe I
4 should ask you that to see if we are on the same
5 wave length.

6 A. The question was on income tax. I can't
7 see our reference to investment now. I don't under-
8 stand the question now.

9 Q. You said you would apply multiple
10 regression techniques to determine the impact of
11 income tax.

12 A. Yes, and there may be other techniques,
13 but I think I would be inclined to use that.

14 Q. What would be the method you would use
15 to get the variability in your regression analysis as
16 to income tax?

17 A. I can't just think back to what was done
18 in the grain study here, but there are tests to find out
19 whether certain output units, gross ton-miles and engine
20 hours, miles of track, and so on -- some will be
21 variable to a different degree with the income tax.
22 I can't remember what was done in the grain study, but
23 I wouldn't be surprised if that was the method. I can't
24 remember what was done about income tax.

25 Q. Let me suggest to you that to get the
26 impact of income tax, it would have to be related to the
27 variability of investment.

28 A. Yes. Another way to do it would be to
29 put it into the cost of money and do it that way.
30



1
2 Q. Now, there is a large portion of invest-
3 ment that isn't variable.

4 A. Yes.

5 Q. And under your method, how would you
6 dissect the income tax cost increase and spread that
7 over that portion of the investment that isn't variable?

8 A. Of course, this would be reflected in
9 the fully distributed cost, the same way as the constant
10 expense is done, according to whichever way you want
11 to do it, the proportion of the variable cost or the
12 gross ton-miles.

13 Q. What you are saying is that the impact
14 of increase in income tax would be spread over the
15 various elements of the traffic in accordance with
16 their ability to take higher costs and still move
17 freely and make a major contribution?

18 A. That is not the way I am saying it, no.
19 What I am saying is that the minimum schedule would be
20 increased by the out-of-pocket costs; this is a variable
21 element in the income tax. The maximum schedule would
22 also be increased by the constant element, the fully
23 distributed cost, and the way the railways wanted to
24 recover it is up to them.

25 Q. You said that segment of traffic would
26 bear the increased cost arising from the use it made
27 proportionately to the factor that caused the increase in
28 cost. That is your theory as an alternative to horizontal
29 increases.

30 A. And the practical application is to have



1 the reflection in the out-of-pocket costs in the maximum
2 schedules.

3 Q. But the reflection in out-of-pocket
4 costs would be relatively small.

5 A. That may be so, yes.

6 Q. And so the big part would be distributed
7 in accordance with the ability of the traffic to bear
8 that increased cost and still move freely, under your
9 method. Is that not so?

10 A. Apart from the captive traffic which
11 would take the fully distributed costs, yes.

12 Q. That means that the captive traffic, you
13 say, takes the fully distributed cost.

14 A. This is the maximum it could take. This
15 isn't the rate, it is the maximum schedule the rates
16 can go.

17 Q. And except for the proportion that would
18 move on the maximum, the ability of the traffic to
19 stand the increase and still move freely would deter-
20 mine what increase it took. Is that not so, under
21 your scheme?

22 A. Yes, because there is the constant
23 element.

24 Q. Now, Mr. Hughes, what you are suggesting,
25 then, is that rate increases on a general basis be
26 put on and tested empirically to see whether they can
27 stand the increase. Is that not what you get down to?

28 A. That is just the way a normal competitive
29 firm does it. When it gets an increase it sounds a
30



1 particular market out, and the commercial judgment, I
2 think, of the men in business and the railways -- they
3 know where they can put on 2 per cent or 3 per cent
4 and maybe take some off somewhere else. As in any
5 competitive business, it would be precisely the same.
6

7 Q. Now, I have no questions on your chapter
8 on the bridge subsidy, because Canadian Pacific agrees
9 with your position in principle.

10 A. From the same school, I understand.

11 Q. And it is of the view that the bridge
12 subsidy was a mistake and should be eliminated at the
13 earliest possible date. But we know that someone else
14 may take a different view, and so I wonder if you
15 could help the Commission by advising -- and I am quite
16 sure you are able to do this -- when the bridge
17 subsidy was applied to that traffic from Eastern Canada,
18 that 20 per cent which you talk about, did the price
19 of the commodities fall to the exact amount of the
20 bridge subsidy in the rate?

21 A. I really don't know, Mr. Sinclair.

22 Q. Did you find any indication that that was
23 so, or do you think that the eastern manufacturer took
24 it as a subsidy to himself and put it in his pocket?

25 A. No. We are talking about who pays the
26 rates, and so on, and you said yourself there are many
27 factors, and I couldn't honestly say where the subsidy
28 went.

29 Q. Did you not say that the bridge subsidy
30 was a subsidy to Ontario or Eastern Canada?



1 A. Yes.

2 Q. Then what that means is that the bridge
3 subsidy did not reduce the selling price of commodities
4 moving across the bridge to British Columbia that were
5 subject to the bridge subsidy?

6 A. That would seem to be so, yes.

7 COMMISSIONER MANN: Mr. Sinclair, before
8 you leave this point, I wonder whether Mr. Hughes could
9 clarify this for me.

10 If a commodity is sold f.o.b. plant plus
11 freight, and that movement is subject to the bridge
12 subsidy, would you not then get the benefit in British
13 Columbia from the bridge subsidy? Now, the conditions
14 were f.o.b. plant plus freight.

15 THE WITNESS: Yes. We are really speaking
16 of long and short-term effects, and it depends exactly
17 what the commodity is. In this instance you outline,
18 then, of course, British Columbia would get the benefit.

19 COMMISSIONER MANN: It is true that only a
20 relatively small proportion of your traffic is eligible
21 for the bridge subsidy.

22 THE WITNESS: Yes.

23 COMMISSIONER MANN: That is because most of
24 your traffic moves west under agreed charges and
25 competitive rates.

26 THE WITNESS: Yes.

27 COMMISSIONER MANN: If, however, two things
28 happened: the bridge subsidy were increased, that is
29 the amount of money was raised from seven million to
30



1 seven plus million, and the bridge subsidy were applied
2 to competitive rates and agreed charges, then would it
3 not be true that to the extent that the commodities are
4 sold f.o.b. plant plus freight, British Columbia would
5 get the benefit?

6 THE WITNESS: British Columbia would get benefit,
7 but only a relative benefit. The very position of the
8 bridge makes the market which is nearer to Ontario
9 than British Columbia -- whether we have it on agreed
10 charges, and so on. This is where I am saying that
11 Ontario gets the benefit.

12 COMMISSIONER MANN: I think Mr. Sinclair's
13 question was in regard to the movement westward over
14 the bridge.

15 THE WITNESS: British Columbia does get
16 the benefit in that instance, yes.

17 MR. SINCLAIR: Q. I appreciate Commissioner
18 Mann raising that. If the price f.o.b. plant plus
19 freight was increased to the amount of the subsidy,
20 which would be a normal thing to do if you were a seller
21 who had control of the market, then what would be the
22 advantage to British Columbia? You have got a true
23 situation of the bridge subsidy being taken as a subsidy
24 to the Ontario producer.

25 A. Yes. You put your own assumption on
26 that, of course.

27 COMMISSIONER GOBEIL: You would have to assume
28 that a firm in Toronto would have an f.o.b. price for
29 Ontario and for the West.
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MR. SINCLAIR: Is there anything wrong with that, may I ask? I take it that you think there isn't that kind of deal made in business.

MR. FRAWLEY: It would be an exceptional seller that he had complete control of the market that he could move the price up as he wanted day by day.

MR. SINCLAIR: Q. In the case you were talking about, he did control the market.

A. Because the demand was inelastic in British Columbia, yes.

Q. And he would be able to take the full advantage to himself of the bridge subsidy?

A. Yes.

Q. And I take it that is one of the reasons that British Columbia is against it?

A. I didn't think of it like that, but it seems to be a very plausible-- it follows from my analysis this morning.

Q. Now, in regard to your chapter on unremunerative services, basically the position of British Columbia is that for good resource allocation, the railways should be permitted to abandon unremunerative services rather than have these subsidized unless there is a subsidy needed to maintain the service in the national interest.

A. Yes.

Q. Now, you referred to a number of what you called problem areas, and you went back to the 1949 Royal Commission Submission of the Canadian Pacific.



1 Let me take the first one, and that is At. and East
2 grain rates. I suggest to you that At. and East
3 grain rates have increased very, very substantially
4 since 1948.

5 A. Now, then, I am not sure now whether At.
6 and East grain rates are at 1 cent a ton-mile, which
7 I understand is the cost of carrying the statutory grain.
8 I know there are differences of the length of haul,
9 and so on.

10 Q. Differences in gathering cost, too?

11 A. Yes, I know there are differences in cost,
12 and so on, and I haven't analysed the situation. I was
13 just pointing out that these are suspect areas.

14 Q. Did you read the evidence of Mr. Edsforth
15 on At. and East grain rates, that the shipments, for
16 instance, at the At. and East rates to Montreal, he
17 said, would be remunerative, the ones to Quebec,
18 Three Rivers, would be marginal, and the ones to Halifax
19 were suspect and they were looking at it. Do you
20 remember that evidence?

21 A. I recall it now, yes.

22 Q. So that problem is in hand in view of
23 that?

24 A. If these very long distance rates to the
25 Coast are being looked at, it would seem to be in hand,
26 yes.



1 Q. Now, another area you referred to was LCL.
2 By the way, have you seen the integrated merchandising
3 terminal of Canadian Pacific at Vancouver?
4

5 A. Yes.

6 Q. And this terminal and the service there of
7 using rail or trucks based on the economics of such
8 movements is a way of attacking this short-haul LCL
9 problem, is it not?

10 A. Yes; I was very impressed with the terminal
11 and the things they do.

12 COMMISSIONER BALCH: Is this set up as a
13 merchandising . . . ?

14 MR. SINCLAIR: This is the merchandising
15 service of Canadian Pacific in their pilot operations,
16 referred to in the evidence and about which the Commis-
17 sion will hear more.

18 Q. That problem is in hand?

19 A. Well . . .

20 Q. It is being worked on?

21 A. It is being worked on in Vancouver, yes;
22 and no doubt you are doing all you can about it. But
23 nobody knows what the costs are. We all know what the
24 revenues are and what the rates are. Nobody knows what
25 the costs are; so we take the Canadian Pacific's word
26 for it that they are doing all they can about it.

27 Q. What you mean by "nobody" is
28 nobody except the people who have the responsibility of
29 pricing the service at such a level as to go out and
30 make a dollar?



1 A. Yes; but if Canadian Pacific is running,
2 say, LCL at a loss as the service was in 1949, then
3 somebody is going to take up the burden; and it is
4 not the C.P.R. that is doing it; it is the freight
5 shippers.

6 Q. I will discuss who is taking up the
7 burden with you later. But is there anything wrong in
8 having the responsibility placed on a man, who has the
9 obligation to make a dollar, of pricing his goods pro-
10 perly? Is there anything wrong with that in the
11 railway industry?

12 A. There are many things that prevent the
13 railways from doing that. There is passenger deficit ...

14 Q. I am talking about LCL.

15 A. If it happened in 1949 why shouldn't it
16 happen in 1960?

17 Q. I will discuss passenger deficit later,
18 right after this. Let us keep to the LCL. You have
19 had an opportunity of seeing it and looking at it and
20 studying it. The Canadian Pacific have introduced an
21 integrated merchandise service to deal with the LCL
22 problem -- and this terminal cost a substantial amount
23 of money, didn't it?

24 A. I should think so, yes.

25 Q. Is it not the proper way to allow the
26 person, who has the responsibility of making a dollar on
27 his investment, to price his services and to know his
28 costs without telling everybody else about it? What
29 is wrong with that?
30



1
2 A. Because if you don't make a profit on
3 it -- if you are pricing the service at less than out-
4 of-pocket cost -- then somebody is going to bear the
5 burden.

6 Q. It may very well be the shareholders?

7 A. That may very well be, but by the same
8 token it is the shipper who has to have his freight
9 rate put up; and if it happened in 1949 what is going
10 to happen in the future when we are going to get more
11 and more competition and captive traffic is getting
12 less and less?

13 Q. So that one of the things that you are
14 trying to do is to protect the Canadian Pacific share-
15 holder from the incompetence of its management?

16 A. It would seem to be that, yes.

17 THE CHAIRMAN: Are you working this in British
18 Columbia?

19 MR. SINCLAIR: Yes.

20 THE CHAIRMAN: Is that rail or non-rail?

21 THE WITNESS: It is a mixer-maxter right
22 at the moment, because it is in its pilot operation.
23 There is some of it in rail and some of it isn't in
24 rail; but obviously this becomes rail when the thing
25 sorts out.

26 COMMISSIONER MANN: Express?

27 MR. SINCLAIR: Under Board of Transport
28 section 387, the studies we have had them and the dis-
29 cussion we have had with them, they recognize that we
30 are in a transition period and in a difficult problem of



1 integration; and we have problems in making certain
2 that our labour relations are straightened out; we have
3 a big problem there. We have a big problem on our
4 method and procedure and a number of other things.
5

6 But I would expect -- I have no reason to
7 expect otherwise -- that when the matter got straightened
8 out it would come all into rail. Basically it is
9 LCL and express and LTL.

10 THE CHAIRMAN: It is all scrambled at the
11 moment?

12 MR. SINCLAIR: At the moment, yes.

13 Q. You urged me, Mr. Hughes, to discuss the
14 passenger situation with you.

15 I think you would agree -- if you don't I am
16 sure you will tell me -- that the passenger problem is
17 best met by eliminating the deficit either by having
18 the service stand on its own feet where it is operated,
19 or eliminating this service where alternative methods
20 of travel and the desire to use those alternative
21 methods have been indicated by the travelling public?

22 A. Yes.

23 Q. The policy of Canadian Pacific, Mr.
24 Hughes -- and you have done an awful lot of reading,
25 and I wouldn't be at all surprised if you have even
26 read this -- the policy of the Canadian Pacific in
27 passenger train services has been stated quite recently,
28 and I just wonder if you have read it. It was on
29 May 4th, 1960, by the president in his address to the
30 shareholders. Did you happen to see that?



1
2 A. I must have overlooked this year's copy.

3 Q. Maybe I will put it to you so that you
4 can have it. I think it might be of interest also to
5 the Commission.

6 This is Mr. Crump speaking . . .

7 MR. BRAZIER: Are you going to file it as an
8 exhibit?

9 MR. SINCLAIR: I don't think it is necessary
10 to file all this.

11 "One of your company's objectives has
12 been, and continues to be, the elimina-
13 tion of all losses from the operation of
14 railway passenger services. Aggressive
15 action has been taken over a number of
16 years to reduce passenger service in
17 relation to the demand. Reduction
18 in the volume of passenger business,
19 brought about by the changing travel
20 habits of Canadians, will necessitate
21 still further reductions in passenger
22 train service. Your Company has the
23 second largest fleet of any railroad
24 of modern self-propelled rail diesel
25 cars. Modern stainless steel passenger
26 train coaches, including scenic dome
27 cars, are available for runs that will
28 support volume movement of passengers
29 with conventional trains."

30 Now, in the light of that policy my questions to you



1
2 will be these: Canadian Pacific is phasing out of
3 passenger operations where that is indicated by virtue
4 of demand.

5 A. I am very glad to hear it.

6 Q. I have just stated it.

7 A. I am glad to hear your policy there.

8 Q. Now, you would agree that has to be a
9 gradual process?

10 A. Yes.

11 Q. And that the railway has to do it
12 gradually and meet gradually what has been a most rapid
13 change in the travelling habits of people.

14 A. I don't think there has been a very rapid
15 change. I don't know your passenger figure, but it
16 seems to me that these passenger deficits have been
17 going on for an awful long time and that is one of the
18 reasons why we have had these revenue cases . . .

19 Q. Have you ever looked at the statistics
20 to see the increase in air travel between Winnipeg and
21 Toronto arising from the excellent air service and the
22 competition in the air that is now available between
23 these two points?

24 A. Yes; but that is only one factor. In
25 the same year we have had an increase in population,
26 increase in the wealth of the people who get around
27 more. The very fact that you have air transportation
28 suddenly appearing doesn't mean to say that the deficits
29 that the railways experience will drop off.

30 Q. Let me give you an example once again.



1 Do you know what the increase in air travel was on
2 Trans-Canada Air Lines between Toronto and Montreal
3 last year? I suggest it was 25.6 per cent in one year.
4 The population between Toronto and Montreal didn't go
5 up 25.6 per cent.

6 A. This is also a profitable operation for
7 the railways in passenger service, isn't it?

8 Q. Yes.

9 A. Well, it doesn't correlate with what you
10 are saying.

11 Q. It may require adjustment of services,
12 may it not, and adjustments to equipment and adjustments
13 of time? All these things take time.

14 A. Adjustments do take time, yes.

15 Q. And, Mr. Hughes, it would be wrong to
16 suggest that the freight payer at the time of the change
17 should be relieved of any burden that comes from pas-
18 senger services when the benefits from passenger
19 services were acquired by those same freight payers
20 in days gone by?

21 A. I can't understand your reasoning there.

22 Q. You can't. Let me put it to you again:
23 In this period of change of passenger service, which,
24 you have agreed, must be gradual, the freight payers
25 should continue to take the passengers as a part of the
26 unitized railway operations just as they did in the
27 past?

28 For instance, when passenger train service
29 was profitable it relieved the amount of money necessary
30



1
2 from the freight payer?

3 MR. BRAZIER: How far back?

4 MR. SINCLAIR: Just a minute. If you want
5 to be cross-examined you had better ask him to step
6 down and I will cross-examine you.

7 THE WITNESS: In that period the earnings
8 on Canadian Pacific stock were very much greater than
9 they are now, and the deficits were distributed equally
10 to the railways and probably there was less burden on
11 the freight shipper -- maybe there was even a subsidy;
12 but it was equally shared between the stockholders and
13 the freight shippers, and this is what we are asking
14 for now, essentially.

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20 (Page 13890 follows)
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1 Q. I see, you are not one of those people
2 that suggests that while there is a gradual phasing out,
3 passenger train deficits as they now are should be
4 eliminated in considering freight rates.

5 A. I don't know how long you are speaking of
6 when passenger services were profitable, but the body
7 of freight shippers has very obviously changed in these
8 years. There are new shippers now that were not in
9 existence then.

10 Q. What I am asking you, Mr. Hughes, is:
11 is it your position, the position of British Columbia,
12 that passenger train deficits which are now under the
13 process of phasing out, according to the policy I have
14 given you of the Canadian Pacific, in that phasing out
15 period should put no longer any burden on any other
16 user of railway services. Is that your position?

17 A. Yes, we do not want the burden of
18 passenger deficits on freight shippers.

19 Q. But if, Mr. Hughes, having had the
20 advantage, you took it down through the years, why
21 should not you take the concomitant burden that arises
22 through changes in the travel pattern?

23 A. It seems to me that you are making a
24 statement there that I have no method of checking. You
25 say there were passenger profits in the past applied to
26 the freight rates of shippers, and this is something
27 -- I know that the equity stock has been paying less and
28 less of C.P. over the years, I know that fact, but I
29 do not know the fact about the passenger profits and
30



1 costs and so on during the period you are talking about,
2 so I cannot accept what you are saying.

3 Q. Let us assume at some time in the
4 history that these passenger train services and freight
5 services were considered by the regulatory tribunal
6 to be a unitized service, that railway service was
7 considered to be unitized in respect of passenger and
8 freight. You know that is the way the regulatory
9 authority considers it, don't you?

10 A. As far as I know, that was the position
11 in the 21 per cent case, wasn't it?

12 Q. And they were only expressing the same
13 position that they had in the 1920.

14 A. Yes.

15 Q. Then I am asking you, during this period
16 of phasing out of passenger train services, why should
17 the people who demanded this service not take the
18 obligation for it?

19 A. Mr. Gordon before the Sessional Committee
20 said that the C.N.R. on I.C.C. statistics lost \$90 million
21 for passenger services. Now, this is an awful lot for
22 one railroad to be putting onto the freight shippers,
23 if those figures are right.

24 Q. Let us forget about Mr. Gordon and
25 you talk to Mr. McDonald about him.

26 A. It is the same thing as happening in the
27 C.P. now.

28 Q. What have you got to suggest that there
29 is the same thing happening?
30



1
2 again. It is the position of British Columbia that
3 freight payers should not bear the passenger deficit.

4 A. That is right, yes.

5 Q. Is it the position of British Columbia
6 that, for instance, they want passenger service?

7 A. I don't think they are expressing
8 very strong views on that, whether they want it on the
9 C.P.R. line. They are willing to go out and do something
10 about it, willing to put some money out to be protected
11 and so on. Where they want it they do something about
12 it.

13 Q. I see, and if it is shown that the
14 passenger train service that they want cannot stand on
15 its own feet, then is it the position of your Government
16 that they will make up the difference so that it will
17 not continue to be a burden on anybody?

18 A. I cannot say what is the position of
19 the Government on that.

20 MR. BRAZIER: I can advise my learned friend
21 that it is not the position of the Province of British
22 Columbia.

23 MR. SINCLAIR: Q. Then now having it
24 stated by counsel that it is not the position of British
25 Columbia that the province wants to make up deficits,
26 that it is going to make up the deficits, if the only
27 person that wants it is B.C. and the railways do not
28 want it, they are losing money, but B.C. wants it --
29 who is going to make up the difference?

30 A. I say I spread it all out in the brief



1 here, and I say probably a contract service, probably an
2 abandonment where it is not possible, probably re-
3 pricing. There are all kinds of solutions.

4 If the thing cannot be abandoned, it has to
5 be in the national interest that they have a railway
6 passenger service put on, then this should be borne
7 by the nation and not by the particular freight or
8 class of captive freight shippers.

9 Q. What you are saying to this Commission
10 on passenger service, is this, that the railways,
11 where there are alternative methods that meet the
12 requirements of the travelling public, should abandon
13 their service.

14 A. Where possible, yes.

15 Q. And No. 2, if the service is serving a
16 local need, that they should adjust their prices, and
17 if they still cannot make it up, then that local need
18 should make up any deficit, correct?

19 A. Yes, that is all down here.

20 Q. And the third alternative would be
21 where there would be a passenger train service that
22 was necessary in the national interest and it could not
23 make money, and in this instance that service deficit
24 should be the obligation of the national treasury.

25 A. Where it was deemed in the national
26 interest, yes.

27 Q. Now, have you read the submission of
28 Mr. Crump to this Commission in which he said that he
29 knew of no passenger trains on the Canadian Pacific that
30



1
2 were in the national interest?

3 A. I cannot recall the exact words.

4 Q. It was to that portent, you recall?

5 A. Yes.

6 Q. Now, have you any passenger train
7 services on Canadian Pacific that you would like to
8 suggest that are in the national interest which Mr.
9 Crump has overlooked?

10 A. No, I am not the keeper of the national
11 interests, and I am not coming from one end of the
12 country in such a lowly position and saying what is
13 the national interest.

14 Q. British Columbia -- not speaking to you
15 as Mr. Hughes -- has British Columbia got any that they
16 would like to say Mr. Crump has overlooked, and the
17 reasons therefor?

18 A. I cannot answer that one because I do not
19 know what British Columbia thinks is the national interest.

20 MR. GUEST: You have still got passenger
21 services on the P.G.E.?

22 MR. SINCLAIR: Of course, any losses on
23 P.G.E. are subsidized by the Province of British
24 Columbia, and that may be quite proper.

25 THE CHAIRMAN: But B.C. may be pretty
26 clear that they were to be in subsidy. Then
27 P.G.E. had to get in on it.

28 MR. GUEST: Get in on the act.

29 MR. SINCLAIR: Only, I think, sir, when we
30 are dealing with matters of movement, products that were



1 in the national interest.

2 THE CHAIRMAN: Oh, yes, surely.

3 MR. SINCLAIR: Q. Now, Mr. Hughes, if I
4 may, I will come to another matter, and that is the
5 question of Crow's Nest grain rates. I think your
6 submission has made it clear, first, that the position
7 of British Columbia is that the grain growing industry
8 in Western Canada is in the national interest, that
9 is correct?

10 A. Yes.

11 Q. In the brief of British Columbia?

12 A. Yes.

13 Q. And that in the view of British Columbia
14 now and in the foreseeable future, the Western Canadian
15 grain farmer cannot afford to take up higher transporta-
16 tion charges in the movement of grain and products
17 to export positions.

18 A. Where do I say this?

19 Q. You said that in some of the evidence
20 in amplification of your brier. I have not the page.
21 Do you not recall expressing that view?

22 A. I am not sure if you have got the words
23 there or the context. I am just looking for it if you
24 don't mind.

25 Q. I have not the context. I am asking you
26 if that was not your position? Are you quarrelling
27 with some word I used in your mind, Mr. Hughes? Let
28 met put it again, that it is the position of British
29 Columbia that now and in the foreseeable future, in the
30



1 light of all the facts involved in the grain business,
2 that the farmer cannot afford himself to take up higher
3 transportation charges -- the farmer cannot now or in
4 the foreseeable future, without undue hardship, afford
5 to take up additional transportation charges in moving
6 grain and products to export positions.

7
8 A. I do not want to be unresponsive here.
9 I am just not sure what I said. It sounds as though
10 it might be it. It is the "foreseeable future" I am
11 not too clear on. I would like to have a look at
12 where I said that.

13 Q. As far as you can see forward, put it
14 that way, I think that is exactly what you said.

15 A. Yes.

16 Q. As far as you can see forward?

17 A. Yes.

18 Q. Then you would accept that statement,
19 correct?

20 COMMISSIONER ANSCOMB: May I just ask you,
21 Mr. Hughes, what makes you think that?

22 THE WITNESS: I this is what I said. I
23 would rather have a look at the transcript and see what
24 I did say.

25 COMMISSIONER ANSCOMB: Let us forget what
26 you did say. Do you think it?

27 THE WITNESS: That the farmer in the future
28 probably won't be able to pay his freight rate?

29 COMMISSIONER ANSCOMB: I do not say pay
30 the freight rates. Mr. Sinclair said he could not pay



1 any more freight rates. Do you say that, do you agree
2 with that?

3 THE WITNESS: As far as I can see, with
4 the position of world markets now, I cannot see the
5 farmers getting any richer or the competition getting
6 easier. I think if there was an increase in the
7 statutory rates, then production of wheat would be cut
8 down quite a lot in Canada, and this may or may not be
9 in the national interest.

10 COMMISSIONER ANSCOMB: I want you to forget
11 this national interest business for a minute -- and
12 I must admit I would like somebody to tell me what
13 this national interest business really is -- but how do
14 you know that the farmer cannot pay any more freight
15 now, this morning? Have you got any evidence to
16 support that?

17 A. No, if you put freight rates up for
18 statutory grain, then some of them could not pay the
19 freight, but obviously I do not think grain would stop
20 moving. Some of them could bear it and others could
21 not. It depends on the increase in the rates.

22 However, I am sure there would be less grain
23 grown simply because some of them could not afford to
24 move the wheat at the new rate. On the other hand,
25 there would be some that could. Not all farmers are
26 in the same position.

27 COMMISSIONER ANSCOMB: Every other business
28 in Canada is in that position. No matter what business
29 it is, some can do this and some the other and some
30



1 cannot.

2
3 A. Yes, if costs go up in the business,
4 then some businesses go out in that line of trade.
5 That is what would happen in the farming, I think,
6 some of the marginal farmers.

7 MR. SINCLAIR: Q. The farmer is in a
8 different position in Canada, is he not, in that he is
9 meeting nationalistic policies in the importing
10 countries in regard to cereal grain production, and
11 he is also meeting subsidized production in the very
12 large competing area in the United States who resort
13 to dumping into typical Canadian cereal markets. That
14 is so, is it not?

15 A. Apart from your last statement. I am
16 not sure about dumping into typical Canadian markets.
17 I would not accept that without having a look at it a
18 little bit further.

19 COMMISSIONER BALCH: Is it not possible,
20 Mr. Sinclair, that Russia in the future may be quite a
21 competitor with the world markets in grain?

22 MR. SINCLAIR: Well, of course, Mr. Balch,
23 at one time what is now part of Russia was a competitor,
24 and I see no reason to think that, Russian trade
25 policies being what they are, they will not be
26 a very formidable factor; but I do not think we have
27 to look as far away as Russia to look for a formidable
28 factor on that question of grain sales and overseas
29 markets. We just have to look to the United States.

30 COMMISSIONER BALCH: Dumping, yes.



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2 MR. SINCLAIR: Whether we use a harsh
3 word like "dumping" or some other kind of word like
4 "loan".

5 THE CHAIRMAN: Some device.

6 MR. SINCLAIR: Some device. It still has
7 a tremendous impact on the ability of the western
8 Canadian agriculture to carry increased costs, because
9 it would be my submission, sir, that the efficiency
10 of the western Canada farmer is certainly not less than
11 his American counterpart, and that he operates under
12 just as stable a government, and his costs of production
13 other than transportation are not higher overall. His
14 transportation costs are certainly very much lower.
15 But, notwithstanding all these things, his returns are
16 substantially less than his American counterpart, and
17 this arises from Government policy.

18 It is these reasons that were behind the basis
19 put forward by Canadian Pacific jointly with Canadian
20 National, that the western Canadian farmer, without
21 undue hardship, could not bear increased transportation
22 costs; and, with the knowledge that under existing
23 world market situations and demand elasticities, that
24 an increase in those transportation costs would flow
25 right back to the farmer.

26 THE CHAIRMAN: Well, we will solve this
27 question at two o'clock.

28 MR. SINCLAIR: I have now found the part
29 of the record where Mr. Hughes was dealing with this
30 question I put to him and I will show it to him.

---Luncheon Adjournment.



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2 On resuming at 2.00 p.m.

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4 THE CHAIRMAN: Order, please.

5 MR. SINCLAIR: Q. Mr. Hughes, just prior
6 to the luncheon adjournment we were discussing the
7 position of the province of British Columbia in the
8 matter of statutory rates on grain and grain products
9 to export positions in western Canada, being your
10 Chapter 4 in your part 1, and we had dealt with the
11 first position that grain growing in western Canada
12 and the movement of the grain and grain products to
13 export positions was in the national interest, and
14 you agreed with that, and I was on the second position,
15 and that was, as I had paraphrased your position, the
16 position of British Columbia was that the farmer in
17 western Canada, the grain farmer in western Canada
18 could not take up increased transportation charges
19 without undue hardship, and you asked me to refer you to
20 the transcript, and I have done so and it is volume 76,
21 page 13489, where you said:

22 "I have not studied the situation of
23 farm income too much, but the general
24 impression I get is that the statutory
25 rates will have to remain at the existing
26 level, if the prairie provinces are going
27 to continue to be a help to Canada in the
28 exports of wheat and so on that they are now."

29 And then later on on the same page:

30 "I think the wheat market is getting



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2 more and more competitive, and I see
3 no trend that farm incomes are going
4 up."

5 It was on the basis of those answers
6 to my friend Mr. Cooper that I paraphrased the position
7 I put to you. In the light of that, do you accept
8 -- you are not wanting to change that position?

9 A. No, that is fine.

10 Q. The third position of British Columbia
11 would be, I take it, that in the light of those two
12 facts we have just discussed, a difference between the
13 statutory level and what would be a just and
14 reasonable rate should be a charge upon the national
15 treasury?

16 A. Yes.

17 Q. Then as I said to you at the recess,
18 I now want to turn to page 13491 of Volume 76 and ask
19 for some clarification. Here the Chairman asked you:

20 "Do you agree with the C.P.R.'s submission
21 in this connection, do you go that far?"

22 Your answer:

23 "I certainly do not, no. Well, fair
24 contribution to overhead here, I think
25 what I had in mind was the constant
26 expenses which are solely related to
27 the grain traffic. That is what I
28 had in mind."

29 Now, Mr. Hughes, it seems to me a
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2 little garbled, because I think we can agree that
3 constant expenses are, by definition, not traceable,
4 and, of course, if you have a solely related expense
5 it is variable in its entirety. So what you are
6 saying is that the contribution would have relation
7 to constant expenses which are solely related must be
8 garbled in some way, and I take it when you say you are
9 not agreeing with the Canadian Pacific's proposal,
10 it is really this, and see if you agree with this,
11 that the Canadian Pacific proposal was that the just
12 and reasonable rate for the movement of grain and
13 grain products to export position in western Canada
14 was at a level that would fit it in with the balance
15 of the freight rate structure and then was tested
16 against total cost?

17 A. Yes.

18 Q. Now, your proposition would be that the
19 level of the grain rate, such traffic being captive,
20 should be fixed at total cost --

21 A. No -- have you finished the question?
22 I am sorry.

23 Q. -- at total cost as long as that level
24 would make the maximum contribution to the financial
25 requirement of the railway, and that is your pro-
26 position, is it not?

27 A. Not quite.

28 Q. Then I guess I don't understand your
29 position. Maybe you could help me and possibly,
30 through me, the Commission and tell me where I have



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2 misstated it?

3 A. First of all, I will clear up this
4 bit on page 13491 in answer to your question, and I
5 do realise now, of course -- and it is in here --
6 what I mean by constant cost is constant to the whole
7 system. Constant cost is not related to the grain
8 traffic; there is not a solely related cost to
9 grain. That is one part of the question.

10 Now, the other part of the question. It
11 is British Columbia's idea that the captive traffic,
12 any captive traffic -- the maximum rate shall not
13 go above fully distributed cost. Now, the actual
14 grain rate may be below fully distributed cost, but
15 it may not be above it.

16 Q. The only reason it would be below it
17 would be where demand factors were such that if it
18 was put at fully allocated cost, putting it at that
19 level would result in a smaller contribution to const-
20 ant expenses than if it was put at a lower level.
21 Now, that is basic to your position as to all captive
22 traffic?

23 A. Yes. If the demand is elastic you
24 get a greater contribution if you reduce the price.

25 Q. You are not saying it is significant,
26 the elasticity?

27 A. I don't know what the elasticity is.

28 Q. When you are considering matters of that
29 kind as an economist, one has to also consider not
30 only price elasticity and the effect of price elasticity



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2 but also the inability of certain fixed segments of
3 the community to move quickly. This is a factor that
4 an economist must look at. Correct?

5 A. Yes.

6 Q. And while I recognise you have only been
7 in Canada a short time, you would agree that another
8 factor that must be looked upon is the sociological
9 factor which marked changes in the grain-growing economy
10 of western Canada would bring about by marked shifts
11 in price to the farmer?

12 A. Yes.

13 Q. And all these things taken together,
14 I suggest to you, makes for the factors that you look
15 upon and take into consideration when considering
16 elasticity of demand for transportation?

17 A. When one is studying elasticity of
18 demand for transportation, it is usual to take the
19 short-run in which these sociological factors -- they
20 are just not there in the short-run; and if you are
21 talking about the long-run, it is not very usual to
22 talk about long-run elasticities.

23 Q. Do you not think that sociological
24 changes in western Canada are operative in the short-run
25 in respect to elasticity of demand for transportation
26 in the movement of grain?

27 A. No, not sociological factors. If
28 you put the grain up sociological factors would not
29 affect the short-run.

30 Q. In other words, you are saying that



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2 because you think transportation demand is inelastic?

3 A. No; in the long-run the demand for
4 transportation would be elastic.

5 Q. I asked you in the short-run?

6 A. It would be inelastic.

7 Q. The sociological factors alone would
8 make it inelastic?

9 A. I wouldn't agree with sociological
10 factors in the short-run. It may be that the
11 farmer is growing his wheat and he has to move it
12 and sell it, and therefore he will demand transport-
13 ation even if the price has gone up. It has nothing
14 to do with sociological conditions; it is just that he
15 is growing his wheat.

16 Q. Let me suggest to you that the whole
17 sociological factors would motivate authorities to
18 protect the farm community and not allow large movements
19 off farm because of the change in the transportation
20 factor, that sociologically that could not happen in
21 the short-term?

22 A. In the short-term, no; in the long-term,
23 yes.

24 Q. And a short-term in the matter where the
25 whole of the economy for seventy years has been built
26 around growing grain, cereal grains, may be thirty years
27 or so; in other words, a family cycle?

28 A. No. I am talking about price
29 elasticities and changes in freight rates. If you
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are talking about thirty years or more, then I would call this the long-run.

Q. I am asking you on sociological factors. You couldn't envisage changes in more than the family cycle, say, thirty years. It would have to be done very, very gradually if you are going to shrink the western farmer in western Canada?

A. Yes, I would agree it would be a long time.

Q. Now, when you deal with fully allocated costs as fixing the level for captive traffic -- and you, of course, make reference to the burden studies in the United States on a number of occasions -- when you talk about fully distributed costs or fully allocated costs, you mean calculated as they are in the United States Bureau of Cost-finding?

A. It doesn't matter which method you use, whether in the grain study or the I.C.C., they are both an arbitrary allocation of constant cost.

Q. What you mean is that by arbitrary -- I suggest to you that doesn't allow tracing; it means you have to pick a statistical technique and divide it equally over all traffic without actually tracing the traffic which occasions the expense?

A. That is correct.

Q. You said it didn't make any difference to you whether you operated under the United States distribution of constant costs or under the one adopted



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2 in the grain studies presented to this Commission?

3 A. In the brief we state the method used
4 in the grain study would be quite acceptable, but any
5 level for the fully distributed costs should be related
6 in some way to the out-of-pocket expenses of moving
7 the traffic. Either of those methods would do that.

8 Q. But there are some other differences
9 you may have overlooked, and I don't want to try at some
10 later date to take your evidence out of context. In
11 the United States allocation the deficit is dis=
12 tributed over freight?

13 A. Yes, in this burden study.

14 Q. And you accept that?

15 A. I don't accept the principle of freight
16 shippers paying for passenger shippers. Something
17 should be done about that. But if you can't do any-
18 thing about it, if the position is there and this
19 was the constant expense, then it has to be allocated
20 to whoever can pay it.

21 Q. Then, Mr. Hughes, you had a number of
22 questions put to you which finished by you stating at
23 page 13499, Volume 76, that on the Canadian Pacific --
24 and I am using your words -- "it is a clear case."

25 THE CHAIRMAN: What was a clear case?

26 MR. SINCLAIR: A clear case that the
27 burden from grain had been borne by the other shippers,
28 and I think the witness said later on in answer to
29 one of my friends, he qualified that to some degree
30 by saying that there was some of each, some borne by



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2 the railways and some borne by the shippers.

3 Q. Is that correct, Mr. Hughes?

4 A. Yes.

5 Q. I just want to see how you come to
6 the view that some of the burden arising from
7 the statutory grain rates has been borne by the
8 shippers and has not been borne by the railways, and
9 I must do this, if you don't mind, by asking you to
10 consider specific movements as examples. For
11 instance, apples out of the Okanagan: How would
12 they have affected the movement of apples out of the
13 Okanagan, how would the shippers of apples have borne
14 any part of the statutory grain?

15 A. Well, apples -- I am just trying to think
16 of the percentage increase in apples, whether it is
17 a low percentage increase or a high percentage increase.
18 The very fact that there has been a percentage
19 increase puts the burden on the apple growers in
20 the Okanagan.

21 Q. Are you suggesting that if grain had
22 borne its proportionate share of increased costs of
23 transportation the rate on apples would have gone up
24 less, notwithstanding the fact that on Canadian Pacific
25 it has been 3 per cent or 4 per cent?

26 A. Yes, and I have based my answer on what
27 Mr. Edsforth said.

28 Q. They did not state that the increase
29 would have been less, all they said was it would be
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2 a factor to take into account when the percentage
3 increase was applied. You see, Mr. Hughes, what you
4 have overlooked is that the result of percentage
5 increases is an empirical testing of the market. Let
6 me give you the example of lumber, which you are very
7 familiar with, coming from British Columbia. Mr.
8 McDonald pointed out that since 1951 the increases in
9 the lumber shipments east were 19 per cent, but even
10 from the post war period that was 78 per cent, and even
11 though the rates are fixed at a commodity level,
12 they still reflect competitive factors?

13 A. Let me give you an example of a com-
14 petitive rate that has gone up on lumber 148 per cent.
15 It has gone up from Vancouver to Winnipeg 148 per
16 cent since the first general level, so I can't see how
17 you can say we have not been taking the increase
18 in other areas.

19 Q. There is another one that has gone
20 up 86 per cent, and that is to Saskatchewan. Have you
21 figured that one out, too? Does this not show,
22 Mr. Hughes, that, notwithstanding percentage increases,
23 the very ability of the traffic to withstand transport-
24 ation charges and continue to move freely -- the
25 rates have been adjusted to that factor?

26 A. Yes, and the point is that it is the
27 other shippers that are bearing the burden. If
28 it wasn't for the percentage increase, then they
29 wouldn't have to pay 148 per cent increase into
30 Winnipeg.



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2 Q. They wouldn't; so that what you are saying
3 is that with that the railways made a proper profit to
4 keep them in a financially sound position. In the
5 light of that let me take the years 1958 and 1959. In
6 1958, you will recall from your reading that the Canadian
7 National Railways had a deficit of approximately
8 \$50 million and Canadian Pacific made a return of 2.7
9 per cent on its net investment. In 1959 Canadian
10 National had a deficit in excess of \$40 million and the
11 Canadian Pacific made a return again of 2.7 per cent,
12 leaving off fractions.

13 In the light of that, even at the rates --
14 some 150, some maybe 140, some 75, some 35 over any
15 given level -- how can they be bearing a burden of
16 grain rates with that very small return? ---

17 MR. BRAZIER: I don't see too much connection
18 between the two.

19 MR. SINCLAIR: Maybe I can explain it to my
20 friend.

21 Q. This isn't clear to you? Is it clear
22 to you, Mr. Hughes?

23 A. No.

24 Q. All right. I will explain it again.
25 What you are assuming, Mr. Hughes, is this, that the
26 Canadian Pacific can forego any increase from one-quarter to
27 one-third of its total Canadian traffic and transfer
28 the burden that should have been borne by that traffic
29 to other traffic and still allow it to move freely
30 and maximize the movement on behalf of the carrier?



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2 That is the assumption.

3 A. That seems a little involved, because . . .

4 Q. Well, it is an involved situation, and I
5 think you have to get it down to its elements.

6 Did you know that grain and grain products
7 involved between one-half and one-third of the total
8 freight movement of the Canadian Pacific?

9 A. Yes, I did.

10 Q. Then, you are suggesting the railways,
11 notwithstanding that, were able to transfer all that
12 burden to the balance of its traffic?

13 A. No, but they have certainly transferred
14 some of that burden, because as Mr. Edsforth said in
15 cross-examination the horizontal percentage increases
16 would be between 112 per cent and 115 per cent instead
17 of the very large one of 157 per cent increase that
18 we have; so that suggests to me that there is some
19 burden there. There may have been some burden to
20 the railway as well, but there has certainly been a
21 burden on the shipper.

22 Q. What Mr. Edsforth said was that if you
23 took the revenue requirements in any given year and
24 applied those to the dollar amount of traffic that the
25 railways had to carry by statute in a given year
26 the resulting calculation would have been less; but we
27 have been testing now for two years, and so while you
28 can do these things theoretically I am asking you to
29 turn your mind to it practically and take 1958 and 1959.
30 You have explained it would have meant Canadian Pacific



1 was able to transfer the costs associated with carrying
2 from a quarter to a third of its total freight in
3 Canada to the balance; and the fact that it hasn't been
4 able to so is demonstrated by the fact that it only made
5 a return of 2.7 per cent.

6 Do you not see that and agree with it?

7 A. I agree with that, but I can only go part
8 of the way. But some of the burden has been borne by
9 the other shippers, and I would like to give you what
10 Mr. Edsforth did say. I can look it up . . .

11 Q. Well, you can read it and I will argue
12 about it. You can read it if you wish.

13 COMMISSIONER GOBEIL: May I ask you a question,
14 Mr. Sinclair?

15 MR. SINCLAIR: Yes.

16 COMMISSIONER GOBEIL: Do I understand if
17 the C.P.R. would have \$40 million more subsidy given
18 to the farmers -- to the railways -- for grain export
19 it wouldn't change anything in the tariff?

20 MR. SINCLAIR: I wouldn't say that; I wouldn't
21 say that at all. I would say that that is a factor
22 which must be taken into account and the rates looked
23 at in the light of the availability of that money. But
24 I am now talking about who is carrying the burden.
25 You see the reason why this is important. Royal
26 Commissions sometimes make mistakes. We pointed out
27 one with respect to the short line to the maritimes . . .

28 MR. FRAWLEY: The second Turgeon Commission
29 was another one.
30



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2 MR. SINCLAIR: I am talking about facts,
3 not about opinions on Royal Commissions being wrong.

4 MR. FRAWLEY: Hard facts so far
5 as Alberta is concerned.

6 MR. SINCLAIR: The point I was making, until
7 I was so rudely interrupted in answering -- the point is
8 that in the Turgeon Royal Commission of 1949-50 the
9 mistake was made of assuming that the burden of the
10 statutory grain rates had been transferred by the
11 railways to other shippers, notwithstanding the facts;
12 but I am saying to this Commission now that whatever they
13 did this has not been so today. I have given you the
14 years 1958 and 1959, and the results which have pointed
15 up, if I may say, very helpfully, this point; and it is
16 too bad that this is so, by the position of the Canadian
17 National and Canadian Pacific combined.

18 But the specific answer to your question:
19 Does that mean that it wouldn't affect the rate
20 structure? -- The answer to that is No, it would
21 affect it because it would give traffic officers an
22 opportunity to operate within that amount of net
23 revenues to maximize the flow of traffic at different
24 levels, which they cannot do now.

25 THE CHAIRMAN: I suppose we will hear a
26 lot more about that later from both sides.

27 COMMISSIONER MANN: On the assumption that
28 Canadian Pacific had, in 1949, advanced to the Turgeon
29 Commission the formula you are now advancing, and on
30 the further assumption that the Turgeon Commission



1 would have granted your request . . .

2 MR. SINCLAIR: Yes?

3 COMMISSIONER MANN: . . . would the increases
4 since that time have been as high as they have been?

5 MR. SINCLAIR: Well, if I may answer that
6 in this way, I would think that the increases would not
7 have had to be as high because the attrition and erosion
8 that arose from the empirical testing out of the demand
9 for transport characteristics for some other traffic
10 would not have been necessary, and for that reason the
11 increases wouldn't have been as high.

12 THE CHAIRMAN: Would other rates have been
13 lower?

14 MR. SINCLAIR: The answer to that, for the
15 reason I have given, is Yes.

16 THE WITNESS: I want to give you, Mr.
17 Sinclair, the bases of my opinion in my answer.

18 MR. SINCLAIR: Q. Yes, by all means.

19 A. In Volume 13 at page 1815:

20 "Q. Can you give me any indication
21 of what the percentage increase would
22 have been had you been able to increase
23 the statutory rate on the various in-
24 creases that occurred since 1950, what
25 the percentage would have been.

26 "A. Well, that is quite an in-
27 volved calculation, Mr. Brazier. I
28 would think around -- it may have been
29 115, 112 per cent, I don't know; it
30 would be in that range, I think."



1 And Mr. Roberts, in Volume 28, page 4175, line 12:

2 "A. Well, of course, rates have
3 moved up in general revenue cases higher
4 than they would have had we been able to
5 places the emphasis on statutory grain. . ."

6 Then, moving down to line 21, to a question by Mr.
7 Blair:

8 "Q. You say 'unless a substantial
9 burden' -- these are your words -- 'were
10 to be placed on other traffic.' Have
11 you any idea what other types of traffic
12 might have to bear any burden?

13 "A. Well, they have all shared,
14 I would say, Mr. Blair, in varying de-
15 grees, because we have applied increases
16 as and when it was possible for us to do
17 so.

18 "Q. So that your conclusion is that
19 the burden has been imposed upon them?

20 "A. There has been a burden on
21 traffic and a burden on the railways as
22 a result of the statutory rates."

23 Those are the bases of my opinion.

24 Q. And you would agree that, whatever was
25 the fact over the ten years from 1948 to 1958, the
26 testing ground is here now, and you can see the effect
27 of a given rate level subject to empirical testing by
28 improving volume, by lowering certain things . . .

29 A. I can, certainly.
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2 Q. . . . without it bearing any part of
3 the transportation costs that are rightfully belonging
4 to it in view of its proportion to the total traffic?

5 A. I can certainly see the effect of this
6 increase in burden on other traffic. I can see the
7 effect in connection with truck traffic -- the erosion
8 of that class of traffic to the truck. I think you
9 mentioned the erosion of traffic to rates being pushed
10 on to the other traffic.

11 Q. You seem very anxious to talk about the
12 erosion to trucking traffic, but let me suggest to you
13 that if traffic is competitive then the rate, if the
14 railways were moving the traffic, is taking into
15 account the alternative transportation media and is
16 properly pricing the traffic?

17 A. Oh, yes.

18 Q. So that they wouldn't change the price
19 of that traffic?

20 A. No.

21 Q. And if the railways on captive traffic,
22 on your basis of rate making, were charging less than
23 fully distributed cost then there would be one reason
24 for saying, under your scheme, that there is no burden
25 put on that traffic; is that correct?

26 A. Well, the very fact that the railway
27 rates are high -- even rates that may be paper rates
28 which the railway may be wanting to come down lower --
29 when the railway puts on a rate increase because of
30 general rate increases then the truckers will move in



1 and take the traffic; and at that time it is too late
2 for the railways to backtrack and take over the traffic
3 again. The rates have been going up, and truck
4 competition has been coming in, and one reason is,
5 at least, high rates due to the statutory grain.
6

7 Q. Let us go over it again. I say: In
8 respect to the fact of traffic being captive, if that
9 rate on the captive traffic is less than the fully
10 allocated cost that traffic has not been bearing any
11 burden because of the fixed rate on grain. Is that
12 correct?

13 A. You are quite right, except that the
14 rates would not have gone up so much had it not been
15 for the losses in other areas.

16 Q. Well, now, Mr. Hughes, I think from those
17 answers and the answers to which you referred I can
18 present whatever argument I have on behalf of the
19 Canadian Pacific to the Commission on this subject.

20 I now come to your Chapter 5 and your one-and-
21 one-third rule. As Mr. Frawley was anxious to say a
22 minute ago, the Turgeon Commission made an error here.
23 They made a grievous error; and I certainly agree with
24 the position of British Columbia in respect to the
25 one-and-one-third rule and the fact that it has intro-
26 duced into the rate structure an unnecessary and un-
27 justified artificiality.

28 These were the words you used yesterday, that
29 it introduced an unnecessary artificiality, and I think
30 that is a very happy phrase, and I think, Mr. Hugnes, it



1 is one that I will adopt as properly describing the one-
2 and-one-third.

3
4 Now, we turn to Part 2, if we may, of your
5 submission . . . I am sorry, there is one other note I
6 have here and I must clear it up, because the fact that
7 my friend Mr. Hume expressed surprise at your answer
8 didn't clarify it.

9 This was an answer given to one of my friends,
10 in which you said that the economic way of moving grain
11 on branch lines might be trucks. Now, I take it, Mr.
12 Hughes, you are aware of the transcript where the average
13 rate on domestic grain is stated by Mr. Edsforth to be
14 something around 2 cents per ton mile?

15 A. Yes.

16 Q. And I take it that it was your under-
17 standing that the railways' proposal is an overall
18 average of a rate at one cent per ton mile?

19 A. For the statutory grain?

20 Q. For the statutory grain.

21 A. Yes.

22 Q. It is 1.0 cents; in other words, half
23 overall on the average of the rate that would be operated
24 with respect to the average rate on domestic grain,
25 western Canada?

26 A. Yes.

27 Q. You also, I presume, know the evidence
28 that there is relatively little -- just very small --
29 trucking of domestic grain in western Canada?

30 A. Yes.



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2 Q. Even the average rate is 2 cents per
3 ton mile?

4 A. Yes, I do.

5 THE CHAIRMAN: Is there evidence as to that?

6 MR. SINCLAIR: Yes.

7 COMMISSIONER PLATT: I would like to know what
8 part of the transcript . . .

9 MR. SINCLAIR: The part of the transcript
10 where that evidence was given?

11 COMMISSIONER PLATT: Yes; where rural grain
12 moving . . .

13 MR. SINCLAIR: Domestic grain; I will look
14 it up and give you the transcript reference.

15 MR. HUME: My recollection is that it was one
16 of the witnesses in Alberta, and my friend might look
17 there. There was a considerable amount of it in
18 Alberta; one of the witnesses in Edmonton.

19 MR. SINCLAIR: Well, of course, I recall the
20 evidence, and I know that there are some substantial
21 movements of grain for substantial distances at the
22 railhead; but it is because the railway movement in those
23 areas is not available that there is some of that coming
24 on the N.A.R. and some to Meadow Lake; and there are
25 in a number of places in western Canada trucks operated
26 by grain corporations -- grain-handling organizations --
27 to bring it to railhead; but there are no substantial
28 movements that I know of.

29 But I think that is in the record, and if I
30 have misstated it then I will have to get the evidence;



1 and I will find the transcript reference and give it to
2 you.

3 MR. HUME: At pages 3073 and 3074 Mr. McCoy,
4 in giving evidence as to the Canadian National Railways,
5 said that there was a movement of domestic grain. He
6 didn't qualify it with any adjectives, but he cer-
7 tainly indicated that there was such a movement.

8 MR. SINCLAIR: Very well, I will look it up.

9 Q. Mr. Hughes, my point was this, and what
10 I would like you to comment on is that the railways'
11 proposal is based on averaging of all movement to
12 export positions?

13 A. The railways proposal is what?

14 Q. For what would be a just and reasonable
15 level . . .

16 A. Yes.

17 Q. . . . of one cent -- that is based on
18 an average?

19 A. Well, I will take it that that is the
20 proposal, yes.

21 Q. Now, if, for instance, in certain move-
22 ments trucks moved grain I presume it would be the
23 position of British Columbia that they would have to
24 accept the same obligation as the railway in regard to
25 the movement of grain?

26 A. Yes; when I was replying to Mr. Hume
27 yesterday I didn't have in mind that the trucks would
28 move export grain at the export level -- should I say --
29 at present export level; and even if it isn't up to
30



1 fully distributed cost I cannot really see the trucks
2 moving it. But the reason why trucks don't move
3 domestic grain is that there is the feed grain subsidy
4 of about \$17 million on railway-moved grain.
5

6 MR. HUME: On trucks, too.

7 THE WITNESS: On trucks, too, is it?

8 MR. BRAZIER: Not in British Columbia.

9 MR. SINCLAIR: I will accept my friend's
10 answer on behalf of the Trucking Association.
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Hughes cr-ex
(Sinclair)

13927

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2 Well, I think we have clarified the position then,
3 that you were not concerned with trucking. You
4 have made no study, have you, as to this, about the
5 movement and cost of movement by truck versus the
6 cost of movement of grain by rail?

7 A. No, I don't know of any studies.

8 Q. You see, Mr. Hughes, as far as I know
9 -- and maybe you can assist the Commission if you know
10 differently -- containerization such as Strick or half-
11 containerization off the farms and then doubling up
12 to allow them to haul them to the railhead, has not
13 been adopted in the movement of grain in Canada, not
14 to my knowledge. Have you ever seen it?

15 A. No, I have never seen it. I don't
16 know much about short-haul movement of grain to rail
17 head. I don't know how they do it.

18 Q. Short haul of grain has to be
19 relatively small truckloads or else it has to be double
20 handled?

21 A. If what you are saying is right, it is obviously true.

22 MR. BRAZIER: Mr. Sinclair was a farmer at
23 one time.

24 MR. SINCLAIR: I am in the happy position,
25 Mr. Brazier, of knowing there is money in farming
26 because I have put it there.

27 MR. GUEST: It is safe anyway.

28 MR. SINCLAIR: Q. Now, I am going to
29 part 2. I am not at all sure, Mr. Hughes, that I
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understand this rate proposal that you have got, and I hope you will bear with me in it.

I am sorry, Mr. Chairman, every time I go to start on this place that I approach with a certain amount of caution, I find another note of what I meant to ask the economist witness for British Columbia.

That is, that you made reference to the lumber and the effect of freight rates on lumber, and you made reference to the United Kingdom market. What impact has rail freight charges in Canada on the movement of B.C. lumber to the U.K. Market? Tell the Commission, please, how they do have an effect?

A. Yes, there is not any real effect at all of railway freight rates on the movement of lumber to the British market unless you are railing some to the seaport.

Q. I thought that might be your answer and, through the assistance of Mr. Gardiner, Mr. Wood found out how many there were. They publish export rates from the coast by St. Lawrence ports and they tariffy them as 230A, supplement 1, CFA 104K. In the three months March through May 1960 there were three carloads that moved that way out of the very large shipments.

A. Three carloads or a waybill sample?

Q. No, those are three actual movements, that is all the railways received. Now, we will get to this part 2. Let me see if I understand what



1 you do mean. You say that your new world for rate-
2 making is to be cost-oriented, that is fundamental?

3 A. Yes.

4 Q. The next fundamental is that value of
5 the product must not be a factor in classification?

6 A. Yes.

7 Q. And the third factor is that route costs
8 must be reflected in each rate; correct?

9 A. No, in the minimum rate schedule, and it
10 would be in the maximum rate schedule.

11 Q. Well, then route costs are a factor in
12 each rate?

13 A. It is a factor in the minimum rate schedules
14 and then whatever the railway would like to charge above
15 that then it will be quite free to do so.

16 Q. But it is still a factor in each rate?

17 A. No, it is not. It is a factor in the
18 minimum out-of-pocket costs, minimum rate.

19 Q. Which is a factor in each rate?

20 A. It does not necessarily mean you would get
21 route costs reflected in the actual rates, original charge.

22 Q. Just a minute. I am trying to get these
23 things down one, two, three, four. Then we will start
24 on the changes in a minute. The first was they are
25 cost-oriented; second, that the value of the commodity
26 has no part in the classification; thirdly, the route
27 costs are a factor only, you say, on the minimum scales
28 and in the maximum scales?

29 A. Yes.
30



1
2 Q. And fourth, the maximum scales apply
3 only to captive traffic which you define as traffic for
4 which there is not an existing reasonable method of
5 transporting the commodity concerned ---

6 A. By rail.

7 Q. By rail. Is there anything I have left
8 out?

9 A. I am quite sure you will find them. I
10 cannot think of anything offhand.

11 Q. Now, the purpose of your new rate scheme
12 was to simplify the rate structure and make it more
13 easily understandable?

14 A. That is one purpose.

15 Q. How many tariff rate changes would you
16 expect under your rate schedule?

17 A. I should think they would be considerably
18 less than they are now.

19 Q. How many do you think there are now?

20 A. I did know the number. I know it is
21 a few thousand.

22 Q. A few thousand? Would you be surprised
23 if I suggested to you that there are about thirty
24 thousand tariff items, changes in the existing freight
25 rate classification, Canadian that is, eliminating
26 American?

27 A. I would not be at all surprised.

28 MR. BRAZIER: Is that per year?

29 MR. SINCLAIR: Per year.

30 Q. I would suggest to you that under your



1 system that would go into the hundreds of thousands?

2 A. I suggest -- I don't think it
3 would.

4 Q. Have you tried to figure out what it
5 would cost the railways to make tariff changes under
6 your proposal?

7 A. The tariff changes would be when the
8 railways thought the value of service factor was a
9 little different. As I see it, there would be two
10 basic tariffs, a captive tariff or non-competitive
11 tariff, and the competitive tariff.

12 We think that the railways can do what they
13 want. They can have as many tariffs as they want or
14 as few as they want, and there is no more reason to
15 think that the tariffs should go up to hundreds or
16 thousands, I cannot see that at all.

17 Q. Well, my advisers are practical rate-
18 making people who have tried to understand this, and
19 your suggestion is that you think they are wrong. You
20 are entitled to their opinion and they are entitled to
21 theirs.

22 A. I wrote the scheme and with a lot of
23 practical advice.

24 Q. Did you make out the scheme with a lot of
25 practical advice?

26 A. With a lot of practical advice, and it is
27 my opinion that the tariff changes would certainly be
28 no more than they are now and probably a lot less.

29 Q. Did you receive practical advice from the
30



1 traffic managers of the lumber industry on the coast,
2 and are they whole-heartedly supporting your cost of
3 service, so-called pricing system?
4

5 A. We have a traffic advisory committee
6 there, and the lumber manufacturers are part of this
7 committee, and the committee fully supported it, yes.

8 Q. Did Mr. Brazier not let you see the
9 letter of 2nd June to the Attorney General and Minister
10 of Industrial Development, Trade and Commerce, from the
11 Council of the Forest Industries, copy of which was
12 sent to the Vice-President of Traffic of the Railway --
13 presumably to let you draw this to their attention.

14 You saw this?

15 A. I have seen it.

16 Q. Are you saying, notwithstanding this
17 letter and the language used in it ---

18 THE CHAIRMAN: What is that letter, Mr.
19 Sinclair?

20 MR. SINCLAIR: It is a letter addressed to
21 the Honourable Robert W. Bonner, Q.C., Attorney
22 General and Minister of Industrial Development,
23 Trade and Commerce, Parliament Buildings, Victoria,
24 B. C., dated June 2nd, 1960, with copies to Mr. Brazier,
25 Mr. A. H. Hart, Vice-President, Traffic, Canadian
26 National Railways, and Mr. C. D. Edsforth, Vice-President,
27 Traffic, Canadian Pacific Railway Company.

28 MR. BRAZIER: I have not yet been able to
29 find out whether this was inspired by railway traffic
30 men or not.



1 THE CHAIRMAN: Who wrote this letter?

2 MR. BRAZIER: Mr. Nicholson.

3 MR. SINCLAIR: Mr. Nicholson, who is president
4 of the Council of the Forest Industries of British
5 Columbia.

6 I don't know whether we have been able to
7 inspire Mr. Nicholson to write a letter like this, or
8 to have the people go over to see the Attorney General.
9 Whatever it is, there is the letter, and there are
10 some parts of that I would like to refer to, with your
11 permission.

12 COMMISSIONER GOBEIL: Is it signed as
13 president?

14 MR. SINCLAIR: It is signed as president of
15 the Association.

16 MR. BRAZIER: Mr. Chairman, Mr. Nicholson's
17 name has been mentioned. I think as a member of the
18 Bar you would know Mr. J. R. Nicholson, who was a
19 practising lawyer in Vancouver until the 1st of May,
20 and he has just become what they term as president of
21 the Council of Forest Industries of British Columbia,
22 which is an organization of other forest industry
23 organizations, such as B.C. Lumber, the Plywood
24 Association. Mr. Nicholson has just stepped from
25 the practise of law into being president.

26 Now, I think since Mr. Sinclair has brought
27 this up, the whole letter should be filed as an exhibit.

28 MR. SINCLAIR: By all means.

29 THE CHAIRMAN: Well, read it and file it.
30



1 MR. SINCLAIR: I will read the letter in its
2 entirety then. It is addressed:

3 "Dear Mr. Minister:

4 "Re: Submission of the Province of
5 British Columbia to the Royal Commission on
6 Transportation.

7 "Thank you for the privilege and the oppor-
8 tunity afforded to present to you personally
9 the views of the Council of the Forest Indus-
10 tries on the Submission described above."
11 That is the submission of the Province that is now
12 before this Commission.

13 "Our delegation is most appreciative of the
14 friendly reception and the attentive hearing
15 given on the occasion of my recent visit
16 accompanied by Mr. J. V. Christensen, Presi-
17 dent of the B. C. Lumber Manufacturers
18 Association, and Mr. Walter Campbell, the
19 Chairman of our inter-association Traffic
20 Committee.

21 "I had to leave for Ottawa almost imme-
22 diately after seeing you in Victoria and my
23 absence accounts for my not having written
24 to you at an earlier date the letter which,
25 on the occasion of the said visit, we said
26 would be written as a follow-up to our talk
27 with you. As we advised you at that time,
28 our Council and its member-associations share
29 the widespread concern of the Provincial
30



1 Government and of industry generally through-
2 out the province regarding the high freight
3 rates payable on shipments of goods from
4 British Columbia to other parts of Canada.
5 It was because of this concern that the B.C.
6 Lumber Manufacturers, the Plywood Manufacturers
7 and Consolidated Red Cedar Shingle Associations
8 of British Columbia submitted a joint brief to
9 the Royal Commission on Transportation at its
10 hearings in Vancouver in February last.
11 Since that brief was prepared and presented,
12 the Provincial Government, having after
13 careful study come to the conclusion that
14 the application of such a concept or theory
15 will result in more equitable treatment to
16 industry of the Province in the matter of
17 freight rates, has come out strongly in its
18 submission to the said Commission in favour
19 of the 'Cost-of-Service' concept in rate-
20 making. We sincerely hope that these
21 efforts of the Government will result in
22 lower rates than those now applicable to
23 timber and lumber products moving east-
24 bound by rail from the coast region. We
25 feel strongly that such a reduction is most
26 important to our industry and to the economy
27 of the Province.
28

29 "While it is ready and willing, how-
30 ever, to support any action that it feels



1 will result in lower freight rates for the
2 lumber industry and other coast shippers in
3 British Columbia, the Council of the Forest
4 Industries is not prepared, at this time, to
5 give its unqualified support to the portion
6 of the submission of the Provincial Government
7 advising the 'Cost-of-Service' theory in rate-
8 making. Many experienced traffic men in the
9 employ of our member companies are worried
10 about the practical application of such a
11 theory and these experts have even more
12 serious doubts as to whether a strict appli-
13 cation of such a concept will result in lower
14 rates to shippers of lumber and lumber products
15 from the coastal region. As we advised
16 you, however, while in view of opinions
17 expressed by so many traffic men with several
18 years of practical experience, our industry
19 cannot support this part of the Government's
20 submission., we most certainly do not intend
21 to oppose the Government's stand. Our ex-
22 perts are not sufficiently clear as to just
23 how such a theory would be applied so as
24 to be able to either support or oppose the
25 submission at this time. As we explained
26 to you, however, since we do entertain these
27 doubts, we feel we should go on record with
28 you to that effect before the submission is
29 put forward before the Commission.
30



1 "Our industry is particularly concerned
2 with the fact that, since the movement of
3 forest products by rail from British Columbia
4 to Eastern Canada involves many long hauls,
5 a portion of the overhead and carrying
6 charges of the railway concerned, if a
7 'cost-of-service' formula should be strictly
8 applied, would be assigned to every mile of
9 any long haul and the commodities affected
10 would suffer a disadvantage because they
11 would have to pay their proportionate share
12 of all such charges.
13

14 "We are concerned as to whether, and,
15 if so, how the competitive factor, which of
16 course is recognized in the present rail
17 freight rate structure, will apply if the new
18 theory advanced by the Government is approved
19 and adopted. For instance, what will happen
20 if a shipper can get cheaper transportation
21 from some other type of carrier, e.g. water
22 or motor transportation? Will the railways
23 be free to meet such competition, regardless
24 of the minimum rates which apparently are
25 involved in the 'Cost-of-Service' concept?

26 "We are also concerned as to how the
27 convenience factor will be applied if the
28 'Cost-of-Service' theory be adopted. For
29 instance, where a shipment of goods is being
30 made from the Pacific Coast to Edmonton and



1 the shipper wishes to drop a relatively
2 small part of the load at a C.P.R. Station
3 en route, such as Hammond or Mission, how
4 will the freight rate be made up? Today
5 the lumber industry gets the benefit of
6 the rate quoted by both railways, C.N.R.
7 and C.P.R. from Vancouver to Edmonton and
8 yet they are free to use C.P.R. rails and
9 either drop or pick up freight at a C.P.R.
10 Station if convenience dictates such a course.
11

12 "Again we are concerned with the amount
13 of compensation that would be payable in any
14 'Cost-of-Service' Tariff structure because
15 of the insurance factor which arises out of
16 the fact that the Lower Mainland of British
17 Columbia has several alternative rail routes
18 to Eastern Canada and it is essential that
19 more than one such route be maintained. The
20 'Cost-of-Service' theory seems to involve the
21 shortest possible route, but in practice
22 this insurance, as well as convenience,
23 competition and probably other factors,
24 should and no doubt will come into the
25 picture.

26 "When some weeks ago a delegation from
27 the B. C. Lumber Manufacturers Association
28 interviewed Mr. C. W. Brazier, Q.C., the
29 counsel who is representing the Province
30 before the Royal Commission on Transportation,



1 and the economists who have been advising
2 the Government, they were assured that the
3 introduction of a tariff based on the 'Cost-
4 of-Service' theory would not result in
5 higher rates to the forest industries of
6 the Province. My recollection is that, in
7 the course of our recent interview, you said
8 that this was also your understanding and you
9 stated that, if further study or opposition to
10 this new concept disclosed that it would not
11 obtain the objective that the Province has
12 in mind and benefit Provincial shippers, part
13 of the Province's Submission would be modified
14 or possibly even abandoned. Our delegation
15 was pleased to receive this assurance from
16 you and, on the other hand, we can assure you
17 that if further information and study convinces
18 us that the introduction of the proposed
19 theory will result in a reduction in heavy
20 freight rates now in effect, we will support
21 the Government's stand. As we informed you,
22 however, our doubts as to the practical appli-
23 cation of the theory in question are suf-
24 ficiently grave that we cannot give you
25 that support at this time.

26
27 "As mentioned to you, I am sending a
28 copy of this letter to Mr. Brazier in Ottawa.
29 I am also forwarding a copy to each of the
30 Vice-Presidents of Traffic of the railways



1
2 concerned.

3 "Respectfully yours,

4 "J. R. Nicholson,

5 "President."

6 ---EXHIBIT NO. 148:

7 Letter dated June 2nd, 1960,
8 from President, Council of
9 Forest Industries of British
10 Columbia to the Honourable
11 Robert W. Bonner, Q.C.,
12 Attorney General and Minister
13 of Industrial Development,
14 Trade and Commerce, British
15 Columbia.

16 MR. BRAZIER: I think if my learned friend
17 for the railways would give to the B. C. Lumber people
18 some information as to what the costs are on lumber
19 shipments, the B. C. lumber people would be more than
20 satisfied to support the proposition that we are
21 putting before this Commission.

22 We invite the railways, now that this matter
23 has come out, to produce a cost study on lumber move-
24 ments in western Canada.

25 MR. SINCLAIR: At the request of the Province
26 of British Columbia, Mr. Chairman, Canadian Pacific
27 did produce certain cost studies. We refused to
28 give them point-to-point locations. We put them as
29 Point A to Point B, and so on, and those were the
30 cost studies requested.

If the evidence of this witness is correct
and the cost concept that he has put forward works
in the way that we think it works, it is our view
that those lumber rates would increase.



1 MR. BRAZIER: Well, Mr. Chairman, Mr.
2 Sinclair is quite right. He submitted to me the costing
3 on a confidential basis, and they have not been dis-
4 closed to anybody, certain figures on lumber. We
5 have respected his confident.

6 I might say, the cost figures we got from the
7 C.N.R. are not the same as we got from the C.P.R. We
8 feel undoubtedly, some of the factors in the C.P.R. are
9 not on the conservative side; they are on the other
10 side this time.

11 In view of the fact that Mr. Sinclair has
12 now mentioned this, I think we should be released by
13 him from the confidential nature of the information
14 that was given to us, and it should go on the record,
15 and there should be a witness in the stand at some stage
16 in these proceedings to be cross-examined on the cost
17 figures that were given to us.

18 MR. SINCLAIR: Mr. Chairman, this is exactly
19 it. We are quite prepared to give them to the lumber
20 industry on the scrambled basis that they have. We
21 are not prepared, and will not, unless we are subpoenaed
22 so to do by this Commission, disclose confidential
23 information to our competitors, and we made that clear
24 before.

25 The difficulty with this is that if Mr.
26 Brazier wants to be relieved of any obligation about
27 giving it to the lumber industry of western Canada,
28 go ahead and give it to them, because I understand
29 that they already know about them.
30



1
2 MR. BRAZIER: I would even undertake if
3 Mr. Sinclair would produce the witness for cross-
4 examination privately and not in an open public hearing.

5 MR. SINCLAIR: I am quite certain that the
6 Commission can discuss, if they wish ---

7 THE CHAIRMAN: We have had lots of words on
8 costs. As I understood Mr. Hughes he suggested a
9 Costing Section of the Board of Transport, did you not?

10 THE WITNESS: Yes, sir.

11 THE CHAIRMAN: And that it would cost and
12 have the information there for its own information?

13 THE WITNESS: For its own information, yes.

14 THE CHAIRMAN: Not for Mr. Brazier, Mr.
15 Frawley or anybody else.

16 THE WITNESS: That is right, sir.

17 THE CHAIRMAN: Just secret.

18 MR. FRAWLEY: Not any more secret truly than
19 the ICC.

20 MR. SINCLAIR: Certainly.

21 THE CHAIRMAN: That is what he was suggesting
22 yesterday.

23 MR. FRAWLEY: I understood from the witness,
24 when he talked about the costing section, and in my
25 cross-examination when he spoke about it, and I certainly
26 hope I did not misunderstand him; I certainly took him
27 to mean the cost section in the ICC which operates and
28 which annually publishes burden studies which show
29 the relationship between revenue and cost -- the thing
30 I have been demanding since last January and which I



1 still regard as pending before this Commission, my
2 application that costs be disclosed.

3 THE CHAIRMAN: I only drew from him yester-
4 day that the costing section was for the information
5 of the Board of Transport.

6 MR. SINCLAIR: He think he made that clear
7 by saying that the minimum charge scale did not have
8 to be published under his scheme but could be turned
9 over to the Board for their confidential information.

10 THE WITNESS: If there was a cost section
11 in the Board, then we would not stick by publication
12 of the minimum scales.

13 MR. SINCLAIR: Q. Do you not know, Mr. Hughes,
14 that there is a cost section in the Board?

15 A. I know what it consists of, Mr. Sinclair.

16 Q. You want it expanded?

17 A. I want it to be able to do cost studies
18 instead of having the railways publish a minimum scale
19 and saying "This is it".

20 Q. Have you ever read the report of the
21 Board?

22 A. Yes.

23 Q. Do you see what they say under their
24 Economics and Accounting under the directorship of
25 Mr. Burwash and the assistant there Mr. Wright.

26 A. Yes, sir.

27 Q. Have you ever read that?

28 A. I know it is there.

29 THE CHAIRMAN: Mr. Mann has a question.
30



1
2 COMMISSIONER MANN: Mr. Sinclair, so that
3 we will be better able to assess this letter you have
4 read into the record, I wonder whether you would get
5 Mr. Campbell to supply to us the names of the
6 Committee of Traffic Managers of the Forest Industries
7 that advised the Council of Forest Industries?

8 MR. SINCLAIR: I have no jurisdiction over
9 Mr. Campbell. He is sitting right there and the
10 Royal Commission is all-powerful.

11 COMMISSIONER MANN: We will get them from
12 Mr. Campbell, Mr. Hughes or Mr. Brazier, perhaps.
13 I wonder whether you might let us have the names of
14 the people who are on the B. C. Government Advisory
15 Council?

16 MR. BRAZIER: Oh, yes.

17 COMMISSIONER MANN: It does not need to be
18 done now. Perhaps you can give it to our secretary.

19 MR. BRAZIER: I am not going to make any
20 bones about it. This idea is novel. We have not got
21 unanimous support in our province in favour. I think
22 this letter indicates very much why we have not,
23 because people do not know what the results will be,
24 and we cannot tell them the results until we know costs
25 from the railways. It is that unknown that they are
26 looking at, and they want to cover themselves by a
27 letter such as this.

28 THE CHAIRMAN: Well, Mr. Brazier, the dis-
29 cussion of the last hour has indicated how provocative
30 and interesting the evidence of Mr. Hughes really is.



1
2 MR. SINCLAIR: I hope to enable some of these
3 people in British Columbia to understand it a little
4 better after I have asked the witness a few questions,
5 after we have a recess.

6 THE CHAIRMAN: After the recess.
7

8 ---Short recess.
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14 (Page 13951 follows)
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THE CHAIRMAN: Order, please.

MR. SINCLAIR: Q. Now, Mr. Hughes, let's just see if we can clear up what your rate-making proposal would entail. This new classification that you would involve would group commodities in accordance with their transportation cost characteristics and nothing else. That is correct -- loadability, damage factor, and so on?

A. That is correct.

Q. This would mean that all the elements now taken into account in the Canadian freight classifications as prescribed by the Board of Transport Commissioners would be taken into account with the one exception of the value of the commodity?

A. Yes. Loadability would be the final factor in the classification.

Q. Loadability, type of car, suseptibility to damage?

A. Yes, that would be in the classification.

Q. Emtpy return ratio -- all these things would be involved, just as the long list that you put down?

A. Just as the long list there, but the primary thing would be loadability instead of value of the commodity as it is now.

Q. It is all these factors that are now taken into account in the Canadian freight classification with the one exception of value of commodity?



1
2 A. Loadability is not taken into the
3 classification, and what we can now do is move it up
4 to the top.

5 Q. It isn't taken into account in the
6 classification?

7 A. It is taken into account, but a very
8 pale reflection of loadability.

9 Q. Do you say you want weight in your
10 classification the factors to determine which class
11 goes into it to make loadability the overshadowing
12 factor to determine the classification?

13 A. All the cost factors would be taken
14 into account, and loadability could well be the first
15 factor. I am not a cost factor expert, but load-
16 ability would be one. Whether it would be the prime
17 one, I don't know. I don't know enough about
18 costs.

19 Q. What you are saying is that you don't
20 want to recede from the position, do you, that they
21 would be exactly the same as the elements taken
22 into account in the classification with the exception
23 of value of commodity?

24 A. That is right.

25 Q. You want to recede from that?

26 A. No, that is all right.

27 Q. So the only one we are leaving out is
28 the value of the commodity, and then you would take
29 into account the value of the commodity in a different
30 way, because the value of the commodity, Mr. Hughes,



1
2 you will agree, reflects the ability of the commodity
3 to bear transportation charges. Correct?

4 A. Not really, no.

5 Q. You do not think in the classification,
6 when they look at value of the commodity, that this
7 is the way of measuring the ability of the commodity
8 to bear transportation charges?

9 A. Where the railway has a monopoly, yes;
10 but the very fact that there are so many rates set
11 at below class rates is a very obvious thing where the
12 classification isn't taken into account. But where
13 there is the value of commodity, this has nothing to
14 do with whether the commodity can bear the transportation
15 charges.

16 Q. I suggest to you that it is with that
17 knowledge that commodity mileage scale and point to
18 point commodity rates can be made, that the value
19 of commodity classification is taken into account.
20 This is a prescribed ceiling we are dealing with.
21 Did that ever occur to you?

22 A. You are saying to me that the railways
23 base their rate structure on the value of the commodity.
24 This is the --

25 Q. I am not saying that to you at all.
26 I am asking you whether you understand the interplay of
27 factors in determining classification of goods?

28 A. Yes.

29 Q. You do?

30 A. Yes.



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2 Q. You have studied it?

3 A. Yes.

4 Q. Have you read any of the proceedings of
5 the Committee when the last classification was evolved?

6 A. No.

7 Q. My suggestion to you is that the value
8 of commodity factor in the Canadian freight
9 classification as it exists today is in absolute terms
10 the ability of the commodity to bear transportation
11 charges, with the knowledge that the railways can and
12 do make commodity mileage scales and point to point
13 commodity rates relating to classes?

14 A. But they don't --

15 Q. Did you look at that?

16 A. Yes, because I have it in the evidence.

17 But if they are basing competitive rates -- and a great
18 deal of the traffic is competitive, and will continue
19 to be competitive -- then the value of commodity is
20 not taken into account at all, and I think we should
21 have something a little bit nearer to reality.

22 Q. Let's not get to competitive rates.

23 Let's take it step by step, because if you don't mind
24 me saying this, I have spent a little time trying to
25 understand your proposal and I am having substantial
26 difficulty and I would like to understand it. Would
27 you mind assisting me by sticking to one point at a
28 time, and I think we won't waste the time of the
29 Commission, and I am sorry I am doing so at this time.
30



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2 Just keep in mind that the value of the commodity
3 factor in the classification was set there in
4 absolute terms with the knowledge that specific
5 and commodity mileage rates could be put into effect.
6 You would take in the value of the commodity and the
7 ability of the traffic to move freely under your
8 scheme first as to competitive traffic in the con-
9 tribution that traffic would make over variable cost
10 to maximise the return to the railways and yet get
11 the traffic for the railways. Correct?

12 A. That is right; the minimum rate would
13 be out-of-pocket costs.

14 Q. It is the ability of the traffic to
15 bear transportation charges and still move freely
16 and maximise the revenue to the railway?

17 A. I didn't agree that the value of
18 commodity and the value of service are the same thing
19 which is what you are assuming there. I didn't
20 agree with that, and the value of the commodity has
21 nothing to do with the amount of freight which the
22 commodity can pay.

23 Q. Do you think that the competing mode of
24 transportation doesn't fix its charges in relation to the
25 value of the commodity?

26 A. Yes.

27 Q. Do you think these competitive truck
28 rates, for instance, in British Columbia are cost-
29 oriented?
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A. Yes. The trucker sets the rates, and if there is competition, then the trucker or other form of transportation -- let's take water transportation -- will set their rates at their cost without reference -- and that is when the railway will come in and try and meet that bulk rate, and there is no reference to the value of the commodity being moved, it is entirely on a cost basis.

Q. I am not knowledgeable on tramp steamship rates to the coast, but you and I know something about the prescribed rates of the rate schedules in British Columbia for truck transport. Is it your evidence to this Commission that they are cost-oriented, or are they fixed and use the rail classification basis?

A. Yes, they actually use classification number 20, and they use it to a much greater extent than the railway does.

Q. Are you saying they don't take into account the value of the commodity?

A. Yes, they do.

Q. If the province of British Columbia wished to experiment with a cost-oriented rate structure, why did they not put it into effect where they had the legislative control and they could have done it by the stroke of the legislature's will?

A. Because the legislators in British Columbia are just beginning to realize, I think, this very fact,



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2 that rates are based on the value of the commodity
3 because there is a large growth in contract and
4 private trucking in British Columbia today. When
5 you have rates based on the value of the commodity --
6 and this is of no concern to a private trucker,
7 and this is why the railways have been losing a lot
8 of traffic, if the value of the commodity goes right
9 through the structure, as you say.

10 Q. If the province of British Columbia
11 is interested in having proper elements of transportation
12 resources based upon cost-orientation, transport media,
13 why did they not introduce this cost-oriented concept
14 of rate-making where they had full authority to do so,
15 namely, intra and inter-provincial trucking?

16 A. This is only published in 1960, but
17 when they read it maybe they will have some further
18 thoughts on trucking in British Columbia.

19 Q. You felt it easier to present this here
20 to this Commission and let them struggle with this
21 problem than it was to do it under the regular tribunal
22 under the aegis of the regulators of transportation
23 in British Columbia?

24 A. I don't know what their thinking was,
25 but if they read this growth in private trucking,
26 then a great deal of thinking will have to go into
27 trucking on the cost of service basis, if they
28 are going to remain common carriers at all.

29 Q. The ability of the commodity to bear
30



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2 transportation charges, in your view, is not affected
3 by the value of the commodity?

4 A. Not where competition is concerned.
5 If you have, as I have said before, a load of
6 silk and a load of bricks and you have a high rate
7 on the silk because of the value of it -- let me
8 take silk. If you have a high rate on silk because
9 it is a valuable commodity and the trucker bases
10 it on cost, then the railway won't see the traffic,
11 the trucker will take it. Let's take a private trucker.
12 He would take the silk himself and base it on his
13 own price and not the railways' price.

14 Q. And he would have 100 per cent empty
15 return factor?

16 A. He may not.

17 Q. Let's assume we have a private trucker
18 moving silk -- and I assume you are talking about
19 raw silk, are you?

20 A. Any valuable silk.

21 Q. You see, you cannot talk about the
22 freight rate structure in a practical way by getting
23 off to generalities, you have to stick to the commodity.
24 It is all very well to discuss these things
25 theoretically, but this freight rate structure is a
26 very practical thing?

27 A. I know, and there have been very
28 practical men advising on it.

29 Q. Now, let's go back to the situation.
30



1
2 Assume with me that cost-orientation is not the basis
3 of the truck rate?

4 A. Yes, that is right.

5 Q. But value of the commodity is a factor
6 in truck rates?

7 A. Yes.

8 Q. That value of commodity is a very
9 material fact in determining the rate level?

10 A. Yes. But you take the person who is
11 not going to pay a high rate simply because the value
12 of his commodity is high; he is going to go out and
13 buy his own truck or sign a contract with a trucker.

14 Q. That introduces possibly a very
15 restricted ability to bring back goods and it is 100
16 per cent empty return?

17 A. With the very high railway rates on silk,
18 it may very well do that.

19 Q. But this is a factor you would have to
20 add in which you wouldn't have to the same degree if
21 you had a common carrier?

22 A. It is the cost going out and the
23 cost coming back.

24 Q. So you would assume the most adverse
25 operating situation to determine the cost level; is
26 that correct?

27 A. I don't understand the question.

28 Q. Well, for instance, if you were going
29 to fix the rate you would calculate it on the basis of
30 100 per cent empty return ratio, base it on the private



1
2 carrier's, private truck carrier's cost; is that correct?

3 A. I would base it on the railways' out-of-
4 pocket cost, and their return factor -- well, it could
5 be anything.

6 Q. I am talking about a competitive rate
7 between the railways and a trucking firm, and the
8 railways are going to have to take into account a rate
9 which will get the business, at a rate with a con-
10 tribution over their variable cost?

11 A. I am quite sure the railway rate can do
12 this now.

13 Q. But what you are saying is that the
14 basis of competition, if they take into account the value
15 of the commodity -- and I assure you that they do,
16 because that is the basis of the truck rates -- you
17 are saying they are doing wrongly because they should
18 take into account the private trucker, and I also assure
19 you they do that. But you are saying they do that
20 on 100 per cent empty ratio?

21 A. No. I gave you an example of 100 per
22 cent empty return ratio as an extreme example, but many
23 truckers don't have that. Piggyback operators on the
24 railways today don't have any consideration of value of
25 the commodity inside the van, and I have seen a lot of
26 Piggyback trains running about and it has nothing to
27 do with the value of the commodity inside the trailers.
28
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1 Q. Are you sure of that?

2 A. Yes, I am sure of that.

3 Q. Well, I suggest you are absolutely wrong
4 because they take into account the factor of trucks
5 as a common carrier, and they recognize that truck
6 rates which enable that trucker to operate at a profit
7 relate the value of the commodity. It may be a little
8 complicated to get it, but I tell you it is there.
9 Have you thought of that?

10 A. I have thought of it, and I have dis-
11 cussed the situation with the C.P.R.'s piggybacking --
12 I don't know what you call them -- the chief of
13 piggybacking in the C.P.R. . . .

14 MR. FRAWLEY: The chief piggybacker!

15 MR. SINCLAIR: Mr. Jenner.

16 A. Yes.

17 Q. He is not a rate maker.

18 A. well, he knows something about rate making;
19 and he says: 'We don't take account the value of the
20 commodity in the trailer; we look at the truck cost,
21 and I am saying that it has nothing whatever to do with
22 the value of the commodity they are carrying.

23 Q. Well, then, Mr. Hughes, let us take
24 non-captive traffic. You say that the ability of the
25 transportation charges to be met by the commodity is
26 based solely, in your scheme, on demand characteristics?

27 A. For the competitive traffic, yes.

28 Q. And, on the captive traffic, up to
29 the maximum of fully allocated cost?
30



1 A. Yes.

2 Q. Subject to breaking through the fully
3 allocated cost, in accordance with your statement
4 given yesterday?

5 A. I don't understand that. "Subject to
6 breaking through the fully allocated cost"?

7 Q. You said you weren't inflexible; that
8 if the railways in this kind of situation were short of
9 money they could put them up high enough for captive
10 traffic to enable them to be financially sound?

11 A. Yes, that is what I said.

12 COMMISSIONER MANN: That doesn't quite meet
13 with the understanding that I had of this yesterday.
14 I understood -- perhaps you can clear this up for me
15 -- that you were inflexible about fully distributed
16 cost as a ceiling; that you made yourself another
17 ceiling, but you certainly didn't want -- at least
18 this was my understanding, and if it is wrong I wish
19 you would tell me -- you did not want the ceiling,
20 once established, at whatever criterion used -- you
21 did not want that ceiling to be broken through?

22 THE WITNESS: No, we don't want the ceiling
23 break-through. What I had in mind was: Let us
24 have a ceiling which is cost-related. I don't want
25 a new ceiling every day, or every year, or something
26 like that; but whatever rate there is for captive
27 traffic let it be based on the cost of carrying that
28 particular captive traffic.

29 MR. SINCLAIR: Q. That is the opposite to
30



1 what you said to me a moment ago.

2 MR. BRAZIER: I don't think he understood
3 your question.

4 MR. SINCLAIR: Well, the record will make it
5 clear, and there is a conflict, and I will try to
6 straighten it out.

7 Q. What you said yesterday was that you were not
8 inflexible about your maxima; is that correct?

9 A. I said I was not inflexible about the
10 way the maximum was made as long as it reflected the
11 operating cost of the railways.

12 Q. Yes; but, Mr. Hughes, if the railways
13 were unable to remain financially sound with this
14 maximum rate you were prepared to enable them, to cover
15 their total expense, to have that maximum increased
16 above fully distributed cost?

17 A. Well, that is just what I said to Mr. Mann,
18 isn't it?

19 Q. Well, that is what I call a break through
20 your ceiling of fully allocated cost. Isn't that a
21 break-through in the ceiling of fully allocated cost?

22 A. I am lost here.

23 Q. The railways have indicated that they have all
24 this to meet out of their competitive-rated traffic --
25 that is, their non-captive traffic. This leaves only
26 one place for them to go -- that is, to their captive-
27 rated traffic; and with the maxima that you put in and
28 with the revenue that they receive from their com-
29 petitive traffic they are still short of their financial
30



1 requirements. Now, under those circumstances you
2 are flexible in enabling the railways to go above their
3 fully distributed cost in captive traffic?
4

5 A. They have to go to the Board to get
6 authorization to put the maxima up.

7 Q. In other words, to go above the fully
8 distributed cost on captive traffic?

9 A. Yes.

10 Q. And that, I suggest, is what I have said
11 from the beginning.

12 COMMISSIONER PLATT: I am getting quite con-
13 fused, too.

14 THE WITNESS: I think it is plainly set out
15 in the memorandum I read yesterday.

16 COMMISSIONER PLATT: As I understood the
17 memo the amount that should be set aside for fully
18 distributed cost, or the one and a half per cent, is
19 settled before the scheme goes into effect?

20 THE WITNESS: Yes.

21 COMMISSIONER PLATT: If the railway can't
22 raise enough money under these circumstances then it
23 goes broke?

24 MR. SINCLAIR: That is not, with respect --
25 what I said is based on the transcript, and I have only
26 interpreted it.

27 At page 13788 he said:

28 "However, should the railways prove
29 that their revenues are not sufficient to
30 cover their total expenses, then British



1 Columbia is not inflexible in the
2 maximum rate position. The province
3 would be willing to have a maximum rate
4 above fully distributed cost providing
5 that such rates reflected railway costs."

6 There is no doubt about this, Mr. Hughes, that you
7 could break through the ceiling of fully distributed
8 cost under the circumstances I have outlined to you
9 under your proposal?

10
11 A. Well, possibly after representations to
12 the Board of Transport Commissioners.

13 COMMISSIONER MANN: Then, if you will pardon
14 me, you are no longer talking about a ceiling on
15 captive costs, are you? You are talking about a
16 very temporary structure of the whole thing; but it
17 is not really a ceiling; it could be changed?

18 MR. BRAZIER: I think there is some confusion
19 here between Mr. Sinclair and ---

20 MR. SINCLAIR: I don't think there is any
21 confusion at all, and I think, with respect, I will show
22 that it is not a cost-of-service concept at all; it is
23 a new and very difficult way of getting exactly what
24 we are getting today, and that will be the purpose of
25 my examination.

26 MR. BRAZIER: If I might interject, British
27 Columbia's scheme envisages that before this scheme is
28 put into effect at all some body will decide that the
29 maximum is going to be either 100 per cent fully dis-
30 tributed cost or 120 per cent fully distributed cost,



1 and that is going to be it, and that is going to be
2 the ceiling. They are not going to be able, next
3 year, to come along and say: "We want 140 per cent or
4 150 per cent of the fully distributed cost." You get
5 120 and that is where it stands.

6
7 What Mr. Hughes is saying -- he can correct
8 me -- is that we are not inflexible when the standard
9 is set in the beginning, that it be somewhat over fully
10 distributed costs, but once it has been fixed then it
11 remains there.

12 Is that correct?

13 THE WITNESS: Yes.

14 MR. SINCLAIR: That is a completely new con-
15 cept to the one put forward by British Columbia in its
16 submission and as explained in the carefully written
17 out memorandum. This is the scheme not of British
18 Columbia; this is the scheme of Brazier, with all due
19 respect.

20 MR. BRAZIER: You will notice my name is on
21 the brief, too.

22 MR. SINCLAIR: If your name is on the brief
23 and you want to change the witness' testimony in the
24 box then it is very clear that . . .

25 MR. BRAZIER: I just put that to Mr. Hughes
26 and asked if that was his understanding of our scheme.

27 MR. SINCLAIR: What he said in answer to
28 me yesterday and what he has said today is incorrect.

29 THE WITNESS: I don't think so.

30 Q. Let me give you this example. If you



1 set the maximum rate at 110 per cent of fully distributed
2 cost and then it is demonstrated that the railways have
3 got all they can from competitive traffic, and, under
4 your maximu, are not able to be financially sound,
5 in those circumstances you would allow the railways to
6 come back and show to the Board of Transport Commis-
7 sioners that they couldn't provide any service at
8 such revenues and remain financially sound, and then
9 the maximum rates would go up? Isn't that so? That
10 is basic to your scheme, is it not?
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2 MR. BRAZIER: I just told you it is not.

3 MR. SINCLAIR: I don't care what Mr. Brazier says,
4 with respect, Mr. Chairman. I am trying to find out
5 what Mr. Hughes --

6 THE CHAIRMAN: The witness.

7 MR. SINCLAIR: Yes, Mr. Brasier has just
8 answered the question that it is not. I think he
9 had better get in the box and I can cross-examine him.
10 I have been trying to do that for years.

11 Q. Well, Mr. Hughes?

12 A. I cannot see that because a traffic
13 is captive then the rate should just go up and up on
14 it, and the scheme was that whatever the Commission
15 thinks would be the ceiling or the Board, whether
16 it is fully distributed cost or above that, a percentage
17 above, as long as it is related somewhere to out-of-
18 pocket costs.

19 When this ceiling is fixed, of course, it
20 will move as costs shift. Should the railways not be
21 able to get enough revenue from the competitive traffic
22 because the competition has been growing and growing,
23 well, the question is, I think: What do other businesses
24 do in similar situations? As I say in my brief, when
25 they have no corral of captive traffic, what they do,
26 they go out and put selective rate increases on. They
27 may even put rate decreases in some places. This
28 then gets them more traffic and more net revenue.

29 The last percentage increase we got 17 per
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2 cent increase, and the railways went out to competitive
3 traffic and shoved it up 2, 3 or 4 per cent on them,
4 the same in the agreed charges.

5 Any business in competition does not even
6 have captive traffic on which to fall back every time,
7 and once we get the ceiling on related costs, we want
8 it remaining there.

9 Q. Let me go through this again with you,
10 Mr. Hughes. The railways having demonstrated to the
11 Board of Transport Commissioners that they had done all
12 they could to increase rate of revenues in the
13 competitive field, are still short of the money
14 necessary to remain financially sound under the
15 maximum rates that you have talked about here.
16 They then go to the Board of Transport Commissioners
17 and say: "Here is our showing. We cannot live under
18 this ceiling, on this captive rate of traffic.
19 Therefore we are asking it to be increased." Would
20 you object to that?

21 MR. BRAZIER: Sure.

22 MR. SINCLAIR: Mr. Brazier, I wish you
23 would let the witness answer, because this is the
24 man that is the father of this scheme, as I take it,
25 and the answer to this question, what the Commission
26 wants to know is the answer of an economist.

27 Q. Would you give me the answer to that?

28 A. Yes, don't forget, Mr. Sinclair, that
29 the maximum schedule also goes up, and out-of-pocket
30



1 costs go up --

2 Q. Proportionately?

3 A. Yes, and the answer to your question
4 "What would the railway do for more money" is if
5 it already had this maximum set ---

6 THE CHAIRMAN: If the ceiling were reached.

7 THE WITNESS: Then it would have to do as
8 other bodies do, either adjust the demand pricing or
9 else it would have to go out of business eventually
10 as any competitive business does.

11 MR. SINCLAIR: Q. Other businesses, Mr.
12 Hughes, I suggest to you, then increase their rates
13 empirically to test the demand factors. Would you
14 allow the railways then to increase their rates
15 to empirically test the demand factor, just like other
16 businesses, is that what you mean?

17 A. In the competitive segment.

18 Q. We are not talking about competition
19 but the captive?

20 A. In the captive, no I would not. It
21 is related to out-of-pocket costs. Don't forget captive
22 traffic is paying more than its costs. When they pay
23 more than fully distributed cost, it is also part of
24 the cost, why should it carry on paying costs for
25 everybody else?

26 Q. Mr. Hughes, any other business does not
27 worry about anything except maximising its sales?

28 A. I agree.

29 Q. And therefore you are saying that the
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2 railways are not to be treated as other businesses,
3 because you have got come concept in your mind that
4 demand factors are not going to be properly assessed
5 by the railways empirically in fixing the level of a
6 rate, is that so?

7 A. As far as captive traffic is concerned,
8 and one other way they could get their money --

9 Q. Just listen to my question?

10 A. Let me finish my answer.

11 Q. I don't think he has answered --

12 A. I answered the question there, that as
13 far as captive traffic is concerned, then, value of
14 service was not to be a factor, whether value of
15 service was above fully distributed costs or whatever
16 ceiling was set.

17 Q. Then it is not the same situation as
18 in other businesses, and the example you gave as to
19 what other businesses would do would not be open to the
20 railway?

21 A. It is not the same situation, but it
22 could conceivably get to be very near the same situation,
23 when 90 per cent of the railway traffic becomes
24 competitive. What are they going to do then? They
25 are going to get reduced costs somewhere or cut the
26 services somewhere.

27 Q. Then, Mr. Hughes, if that is so too, and
28 you have agreed with me earlier that market competition
29 was a factor in fixing rate levels, would you extend
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2 your non-captive commodity groups to include those upon
3 which market competition had an effect upon rate levels?

4 A. I would not take market competition into
5 account. This would already be taken into account in
6 the freight rates, I presume.

7 Q. But I am asking you as to whether the
8 commodity that was being moved was to be declared
9 captive or non-captive. You have in your brief limited
10 it to carrier competition?

11 A. That is right, yes.

12 Q. I am asking you, in view of your admission
13 to me earlier that market competition could fix the
14 rate level or affect a rate level: Would you not
15 extend that to one of the types of competition that would
16 remove that traffic from the captive category?

17 A. No, I would not.

18 Q. Well then, why are you trying to protect
19 traffic moving under a captive maximum rate level, when
20 that traffic is already getting the benefit of
21 market competition, in assessing the ability of that
22 traffic to bear transportation charges? Why?

23 A. Well, if there was market competition
24 for a commodity, then the maximum ceiling, if it was a
25 captive commodity in my definition, the maximum rate
26 schedule would not apply to it. I am not sure whether
27 I understand what you are saying there.

28 Q. That is exactly what I am saying to you,
29 that if there is market competition, the maximum rate
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schedule should not apply to it. Do you agree?

A. I do not agree, no. If you are right, then it would become a paper rate anyway.

Q. But market competition may allow the rate to be substantially over fully distributed costs, just as the competition might let a rate be substantially above fully distributed costs; and why should you, Mr. Hughes, under your scheme, give one type of competition a greater impact in holding rates than another kind of competition? Can you tell the Commission why?

A. I cannot see why this confusion or why this merging of market competition and carrier competition arises. A man is trying to get his product into the market and there are two carriers. Whether the thing is competitive at the other end, I do not see why it should take any effect in the maximum sales that the railway can charge.

Q. Let me give you an example. There are rates into Vancouver today that are purely market competitive, bottles from Ratcliffe, Alberta, to the breweries in Vancouver. They are market competitive, they are not carrier competitive. Under your scheme those rates would be captive to the railways, would they, and subject to the maximum?

A. Yes, if it was captive traffic, yes.

Q. Notwithstanding the fact that they have now the protection of an alternative source of supply in California?



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A. Well, how long is that alternative supply going to last?

Q. In California?

A. Yes.

Q. Just as long as Vancouver lasts, I suggest to you, which I hope is forever.

MR. BRAZIER: They use cans down there.

MR. SINCLAIR: They also use cans in British Columbia.

Q. My point, Mr. Hughes -- and I think it is one that this Commission should be interested in -- is, why should the carrier and non-rail carrier competition be put up on a pedestal as it is under your scheme, and market competition, which is equally effective in dealing with rate situations, is discarded?

A. I will give you a typical example again of why I do not think that market competition is effective in keeping rates down.

Q. You don't?

A. I don't, because the rate to Winnipeg has gone up 148 per cent; I think it is Yorkton has gone up 140 per cent, even though these are competitive rates.

Q. With all due respect, Mr. Hughes, I think that is a complete non sequitur to the question that is before you?

A. Yes, I beg your pardon.

Q. Now, would you like to consider my



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question and talk to Mr. Guest and to your advisers afterwards then I can go on to another point.

THE CHAIRMAN: Leave that until the morning.

THE WITNESS: It certainly takes a lot of thinking about.

MR. SINCLAIR: Q. I will go on to another matter. You would say that the rail carrier's fully distributed costs would set the maximum rate levels. Now, lumber, which can move out of British Columbia via Canadian Pacific to Winnipeg or can move via Great Northern: Whose rail rate is going to fix the maximum, Great Northern or Candian Pacific? It is captive traffic?

A. Yes.

Q. Because there is no reasonable alternative to rail transportation.

A. It would be the low cost railway that would have the lowest fully distributed cost, and that would be the ceiling for all practical purposes in railway rate making.

Q. Yes, and say that that rate level as fixed by the Canadian Pacific was below the variable cost of the alternative rail carrier, then what happens?

A. Well, I cannot possibly see it, but if it is then obviously one railroad would not get the business. It would not be allowed to do under the scheme, but this is a situation that I just cannot possibly see.



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Q. So what you are saying is that the most expensive rail carrier's operations set one part of the rate level, where there is rail competition, and that is the only competition under your scheme that sets it?

A. If the railways get together and agree that this is going to happen, then the railways are perfectly free to do what they want, providing the rates are below the maximum and above the minimum.

Q. So they agree among themselves that, under your rate scheme, they will take the maximum tariff costs between A and B, and they will let the other carrier take the maximum costs between A and C? In other words, railways have been known before, and so have other businesses, to make little arrangements like that. I mean "Why kill ourselves to the advantage of the lumber shipper, when there are other ways of making a buck." What would you do then?

A. I cannot see your point at all, but the principles are there as I have said. No rate would be below out-of-pocket costs and none above fully allocated costs.

Q. I suggest to you that under your scheme you are going to adversely affect the advantage of lumber shippers to alternative rail routes?

A. Do not the railways do this on a more expensive line than on a low cost line? They equalize the rate and I am sure neither railway sets



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the rate at less than out-of-pocket costs.

Q. Are you sure that neither railway sets the rate at out-of-pocket costs? Are you sure of that about the United States railways?

A. No, I am not sure about it in the United States railways.

Q. Because, Mr. Hughes, there is quite a different aspect to rate control with respect to competitive rates in Canada as compared with the United States, and that is one of the reasons why you have to remember that in reading the book "Economics of Transportation" by Meyer et al.

THE CHAIRMAN: Well, Mr. Sinclair, we will follow that up tomorrow.

--- Adjournment.

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held in
the Court Room, Board of Trans-
port Commissioners office,
Ottawa, Ontario, on the 10th day
of June, 1960.

COMMISSION

Mr. M. A. McPherson, Q.C.	Chairman
Mr. H. Anscomb	Member.
Mr. A. H. Balch	Member
Mr. R. Gobeil	Member
Mr. H. A. Mann	Member
Mr. A. Platt	Member

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Mr. A. G. Cooper, Q.C.	
Mr. G. S. Cumming	
Mr. H. W. Ellicott	Adviser
Mr. F. W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Friday,
June 10th, 1960.

---On commencing at 10.00 a.m.

THE CHAIRMAN: Order, please.

MR. SINCLAIR: Yesterday, Mr. Chairman, Mr. Commissioner Mann asked Mr. Campbell to give the names of the Joint Freight Rates Committee of which Mr. Campbell was the chairman, and he suggested that they be given to the secretary. Mr. Campbell suggested if I would on his behalf read into the record what he has written out in this list.

THE CHAIRMAN: If you would do that.

MR. SINCLAIR: Mr. Campbell's list is this: the Joint Freight Rates Committee for the British Columbia Lumber Manufacturers' Association, Plywood Manufacturers Association of British Columbia and the Consolidated Red Cedar Shingle Association of British Columbia:

W. S. Campbell, Chairman - Rail Traffic
Manager, MacMillan, Bloedel
& Powell River Limited
R. V. Vallance, Vice-President - Traffic
Manager, Crown Zellerbach
(Canada) Limited, Lumber,
Plywood and Shingle Divisions
L. R. Andrews, Executive Vice-President -
B. C. Lumber Manufacturers'
Association
M. R. Dusting, Secretary - B. C. Lumber
Manufacturers' Association
R. Homewood - Traffic Manager, Rayonier
Canada Limited



1 B. L. Vaughan - Traffic Manager, Canadian
2 Collieries Limited; Flavelle
3 Cedar Division; Timberland
4 Lumber Division

5 R. S. McDonald, Manager, McDonald Cedar
6 Products Limited

7 A. Griffin, Sales Manager, Lions Gate Lumber
8 Company

9 J. Harris, Sales Manager, Western Forest
10 Industries, Lumber Division,
11 Shingle Division.

12 J. R. Nicholson, President, Council of the
13 Forest Industries of British
14 Columbia

15 J. B. Armstrong, General Manager, Plywood
16 Manufacturers' Association
17 of British Columbia

18 G. R. Mackay, Chairman, P.M.A.B.C. Freight
19 Rates Committee

20 M. E. Welte, Secretary, Consolidated Red
21 Cedar Shingle Association
22 of British Columbia

23 R. S. Vaughan and

24 H. B. Greenall, who are employed by -- Mr.

25 Campbell forgets what companies they are with.

26 COMMISSIONER MANN: Did you read out Mr. Ken
27 Barton's name there?

28 MR. SINCLAIR: No.

29 COMMISSIONER MANN: Thank you very much.

30 WILLIAM HUGHES, continued

CROSS-EXAMINATION BY MR. SINCLAIR (Cont'd):

Q. Yesterday, Mr. Hughes, I was asking
you about market competition and why you would not
recognize market competition as a factor to take a
commodity out of your designation of captive traffic



1 and why you gave recognition only to carrier competition
2 and not to market competition in this proposal of yours.
3 I left it so that you could consult Mr. Guest and your
4 other advisers and consider your answer, and I under-
5 stand you have done so.
6

7 A. Yes.

8 Q. Would you please give the Commission your
9 answer?

10 A. In the position of British Columbia
11 market competition would be recognized, and the market
12 competition that would be recognized to bring the traffic
13 into the competitive class would be market competition
14 which is presently recognized in the Canadian freight
15 rates structure, plus such other market competition
16 which would be recognized by the Board of Transport
17 Commissioners.

18 Q. Thank you, Mr. Hughes. You would agree,
19 I take it, that it would be to the advantage of the
20 railways to show in each and every case that they could
21 that the traffic movement involved was non-captive?

22 A. Well, that may be, and it depends on
23 the movement, it depends on the product, it depends on
24 the degree of competition, it depends on the type of
25 competition. It does not always follow that what you
26 say is right.

27 Q. It would be to the advantage of the
28 railways where the competition enabled the railways to
29 fix a rate and maximize movements substantially above
30 fully distributed cost; correct?



1
2 A. If you can maximize at that, yes; taking
3 those assumptions, yes.

4 Q. So what you find is that where the rail-
5 ways, from their analysis and knowledge of their
6 traffic officers, would determine a higher rate than
7 the maximum rate under competition, they would be
8 applying to the Board to have that movement so recog-
9 nized?

10 A. Well, you must not forget that you put
11 the assumption in there, Mr. Sinclair, that traffic
12 would move at volume at this higher rate, and I said
13 that as you put the rate up the volume falls off.
14 That is on your assumption, but if you do not make
15 that assumption, you may be wrong.

16 Q. It would be to the advantage of every
17 person who believes his rate to be more than the
18 maximum rate to have his movement characterized as
19 captive and thereby get a reduction. Correct?

20 A. It would be -- to put your question
21 another way, you said it would be in the interests of
22 anybody who thinks he has a high rate to get it classi-
23 fied as competitive traffic?

24 Q. No, as captive traffic.

25 A. Yes, it would be in his interest, and it
26 would be only possible if there was no reasonable
27 carrier competition or the type of market competition
28 we have spoken about this morning.

29 Q. Don't you see under that kind of pro-
30 posal numerous interplays and strained relations between



1 the railways and the shippers, one trying to show that
2 their traffic is captive and the other trying to show
3 that it is competitive, and resulting in numerous
4 strained relations and tensions, and matters of that
5 kind?

6
7 A. This certainly, to the best of my know-
8 ledge, hasn't happened in England, and there is no
9 reason why it should happen here. If the Board are
10 reasonable men, the shippers know what is reasonable,
11 the railways are reasonable people, I don't see any
12 strained relations happening here. It hasn't happened
13 in Britain, and I can't see why it should happen here.

14 Q. Have you really studied the way they make
15 the maximum scales in Britain, because I suggest that
16 the way they are made is that they take the most ad-
17 verse operating conditions as a base, they go and
18 secure fully allocated costs, and they they apply an
19 overall 50 per cent markup on top of that.

20 A. The way the Board decides who is a
21 captive shipper and the way they decide a maximum rate
22 is on the out-of-pocket cost. It is the highest range
23 of out-of-pocket cost.

24 Q. You say they are set on out-of-pocket
25 costs in Britain?

26 A. Well, marginal cost, which is very often
27 above ---

28 COMMISSIONER MANN: Mr. Sinclair, you spoke
29 about how these maximum rates are made in British, and
30 you say they ascertain the most adverse operating



1
2 conditions and then apply a 50 per cent markup per-
3 centage. Do you mean the British Transport Commis-
4 sion?

5 MR. SINCLAIR: Yes, the Cost Section of the
6 British Transport Commission, as I understand it,
7 Commissioner Mann, compares these documents or scales
8 and submits them, and this is the basis upon which they
9 are operating.

10 COMMISSIONER MANN: And that is on captive
11 traffic in Britain, one in which there is no reasonable
12 competition, and they complain to the tribunal?

13 MR. SINCLAIR: Yes.

14 COMMISSIONER MANN: And the tribunal approves
15 this in every case?

16 MR. SINCLAIR: As far as I know, they have
17 approved it in some cases, and in other cases they
18 have scaled it down. I don't know how they ascertain
19 their costs; I don't understand their formula. They
20 don't seem to include certain costs; for instance,
21 road maintenance expenses, you can't seem to find it.
22 I think the number of cases where they have actually set
23 a rate below the one proposed is very small.

24 COMMISSIONER MANN: It looks very much as
25 though the final word rests with the tribunal rather
26 than with the British Transport Commission.

27 MR. SINCLAIR: I would think that would be
28 right.

29 Q. Of course, in Britain the amount of
30 traffic that anyone could claim to be captive would be



1 very small?

2 A. Well, there is quite a lot of coal traffic
3 in Britain.
4

5 Q. Are you suggesting that coal is not
6 moved by truck in Britain, by lorry?

7 A. In very short distances around towns and
8 very short hauls it is moved by truck or lorry. Practi-
9 cally the whole of the British railway system, the
10 freight system, was built on the coal economy, and, as
11 you know, Britain is a very large producer of coal and
12 this is a captive traffic in Britain which is pro-
13 portionately a very large part of the traffic in Britain.

14 Q. In your studies of rate-making, I take
15 it you have travelled on the railways in Switzerland
16 and Holland, France, Germany. Have you, Mr. Hughes?

17 A. I haven't studied the transport situation
18 in Europe. I have travelled on the railway in France,
19 yes.

20 Q. And have you studied the way they handle
21 their rates?

22 A. No; and, as I say, I am not an expert on
23 what they do in Britain either.

24 Q. In each of these countries all the railways
25 are nationalized; the one exception to that is some of
26 the small lines in Switzerland. Correct?

27 A. I don't know if you are correct about
28 Switzerland. I thought they were nationalized, too.

29 Q. There are some small railways in Switzer-
30 land ---



1 MR. BRAZIER: Ski railways?

2 MR. SINCLAIR: Well, they may be off-gauge
3 railways.
4

5 Q. But in every case these railways, France,
6 Germany, Switzerland, Britain, Holland, are operating,
7 if you take into account all factors, at staggering
8 deficits. That is correct?

9 A. Yes, and I gave you the reasons why the
10 British Transport Commission was in a deficit position
11 and I said this is not the scheme we are proposing.
12 They have maximum rates set on some basis and they can
13 charge what they want; there is no minimum based on
14 out-of-pocket cost. I don't know how they set their
15 rates in France.

16 Q. Isn't it, with some modification and to
17 gain in the modification, a break-through over allocated
18 cost? Isn't that basically the French system?

19 A. I am going on one article in the British
20 Transport Review, and the similarity would be that they
21 have different out-of-pocket costs as the minimum rates
22 for the line-haul and for the terminals, and they have
23 the terminals set up on a group basis as we do. Now,
24 apart from that I can't say without studying the situa-
25 tion fully, which I certainly haven't done.

26 Q. You are not suggesting that the European
27 experience is meaningful in studying the situation under
28 the transport conditions in North America, are you?

29 A. I am not suggesting that at all. I said
30 that one country has to be taken as a country and the



1
2 conditions in the freight rate structure applying to
3 that country. We can learn a lot by other people's
4 mistakes, experiences, see how they do things, and I
5 think the whole situation in North America, in the
6 United States -- everybody is starting to realize
7 that the value of the commodity has, for all practical
8 purposes, ceased to be the determinant of how traffic
9 will move.

10 Q. When you say everybody, you mean everybody
11 who theoretically approaches and reads articles on
12 transportation?

13 A. No, I am not.

14 Q. Could you refer the Commission to any
15 practical traffic man who has taken that position?

16 A. Yes. I read articles in the Traffic
17 World all the time, I read books by ----

18 Q. Would you give the Commission the names,
19 please? There are people who write in the Traffic
20 World who come from universities, too.

21 COMMISSION MANN: I have a feeling that Mr.
22 Plowman is a mong those who advocate the cost of service
23 theory.

24 THE WITNESS: This is from the Senate of
25 Canada, proceedings of the Standing Committee on Transport
26 and Communications, Bill C-38, Wednesday, June 17, 1959.

27 MR. SINCLAIR: Q. Is this the statement of
28 Commissioner Knowles?

29 A. That is right.

30 MR. BRAZIER: A man with some practical



1 experience.

2 MR. SINCLAIR: Q. Yes. I want you to be
3 careful to be sure that you catch what he says, because
4 I have read that many times. This is the one you
5 quoted, isn't it?
6

7 A. Yes. I am going to give you some other
8 names, too. The question by Senator Smith finishes
9 off:

10 "Does it cost the railway companies
11 any more to move semi-manufactured steel
12 that is carried a little farther in the
13 original raw state per ton and per car?
14 Is there any real reason why that could
15 not be changed?

16 "Mr. Knowles: No, not on a cost
17 basis, except in the case of a heavily-
18 loaded car the unit cost would be some-
19 what less than it would be on a lightly-
20 loaded car. But, Senator Smith, you
21 have asked a great fundamental question
22 in ratemaking that is worrying everybody
23 today, and that is, the way the rate
24 structure is made now, high rates are
25 charged on high-grade materials and low
26 rates on low-grade materials, and the
27 higher rates are being eroded by the
28 trucks and railways are being left
29 with the low-grade articles which are
30 moved at a rate less than the average



1 cost of transportation. That is the
2 great problem all over the world today.
3 I read it in all the railway magazines --
4 that is, the fact that the original method
5 of ratemaking on a value basis, while it
6 was very good for 75 years, is out of
7 date today, and it may be that the rail-
8 ways will have to come to a more cost
9 basis of fixing rates. But as long as
10 the value of the service principle remains
11 in the rate structure, you are going to
12 have that situation existing. It is
13 quite difficult to understand for anybody
14 who has to use the rates, to charge 50
15 cents per 100 pounds on one article and
16 \$1.50 on another when the cost of moving
17 the cars is exactly the same."

18 Q. Surely you don't think that that says
19 that Mr. Knowles is in favour of cost-of-service rate-
20 making such as you have proposed to this Commission.
21 Did you not note what he said in here -- it may be that
22 the railways will have to move more to a cost basis.
23 All that, surely, is saying is that the rates on the
24 low-value commodities will have to go up. Have you
25 ever read Mr. Knowles' views on pulpwood rates and
26 why they should be increased, carry more of the total
27 costs?
28

29 A. You are saying that practical transport
30 men ---



1 Q. Practical ratemaking.

2 A. This is the federal transportation policy
3 and programme, United States Department of Commerce,
4 1960, and the advisers in here -- there was Professor
5 Ernest Williams; he is a professor at Columbia----

6 Q. He is not a practical rate man at all,
7 is he?

8 A. No. Behind the study here, as you can
9 see on the front page, there is a whole group of
10 industry adviser groups, there is the Transportation
11 Council in the United States, which is made up of
12 shippers, of operators. These are practical men, and
13 if you want me to get the names of these men, I can.
14 They are practical men and they recommended in this
15 book that the United States railways get down to a
16 more practical type of ratemaking, and they recommend
17 that as well.
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22 (Page 13993 follows)
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Hughes cr-ex
(Sinclair)

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3 To come back to your question -- your last
4 question -- Mr. Sinclair, this is the problem, as
5 Mr. Knowles says, that, based on the value of
6 commodity service it will not be able to subsidise
7 any other traffic; it is all going as this traffic;
8 and this is the high-grade articles.

9 Q. I suggest to you that all that is
10 being said in both of the documents to which you
11 refer is that the practical rate makers are saying
12 that cost is becoming a bigger factor, and
13 particularly is this so in the United States where
14 it has been legal to charge less than variable
15 costs for competitive-rated traffic? And I pointed
16 out to you before, in regard to "The Economics of
17 Transportation" of Meyer et al, where they talked about
18 this -- this is in the United States concept and
19 there is not the same situation in Canada. I
20 don't think you realise that, Mr. Hughes, because
21 of your answers - you didn't realise that in the
22 United States the situation with regard to floor on
23 competitive-rated traffic is quite different?

24 A. That may be so; you may be right; but
25 I want to tell you what somebody in the Canadian Pacific
26 thinks about the whole rate-making structure, if I
27 may do that.

28 This is an article by Mr. William G.
29 Scott who is, I believe, Director of Traffic Research
30 in the Canadian Pacific Railway.



Hughes cr-ex
(Sinclair)

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Q. He is a director of Canadian Pacific,
and he is an economist who was formerly with the
Railway Association?

A. Yes, he was an economist with the
Railway Association.

MR. FRAWLEY: A graduate in law from the
University of Alberta.

MR. SINCLAIR: And a graduate of the
London School of Economics.

THE WITNESS: I never met him in London.
I don't know if he is a graduate or not.

THE CHAIRMAN: He didn't go to Manitoba,
did he?

MR. SINCLAIR: I don't think so.

MR. GUEST: It all depends on what he
said!

MR. SINCLAIR: I thank Mr. Guest for that.
I will answer your question after I have heard what
he said.

MR. FRAWLEY: Open confession is good
for the soul!

THE WITNESS: He has an article called
"What Differentials in Rates?" He says this:

"The freight classification, or
grouping of commodities into limited a
number of classes on the basis of their
value, is the classical example of
traditional rate differentials. It
was designed to extend market opp-



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2 opportunities as widely as possible
3 in the interests of encouraging both a
4 uniform development of a country and
5 a maximum development of railway
6 traffic. The rates for each class
7 of traffic were to bear a proper
8 relationship to the rates of all other
9 classes; and the revenues from all
10 rates taken together were to be
11 related to the railways' total costs.
12 The freight classification has represented
13 a complex system of bonuses and taxes,
14 taxes being levied on some comm-
15 odities far above the full cost of
16 service and bonuses given to other
17 types of traffic which have been
18 traditionally carried below cost..."

19 MR. SINCLAIR: Q. Below?

20 A. "...below cost..."

21 "Satisfactory as the railway
22 rate structure was under monopoly
23 conditions, it nonetheless was
24 artificial, and was far removed from
25 the normal concept of prices in a
26 highly competitive economy. Its
27 artificiality, moreover, became a
28 matter of practical importance
29 to the railways with the develop-
30 ment of a number of competitive



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2 carriers.

3 What then is the practical
4 significance to the railways of
5 traditional rate differentials based
6 on the value of commodities? Simply
7 this -- large blocks of high rated
8 traffic have been, and are continuing
9 to be, diverted from the railroads to
10 common, contract and private carriers,
11 not because these carriers can handle
12 high value commodities more economically
13 than the railways, but rather because
14 such traffic can be moved more cheaply
15 than at the prevailing railway rates
16 which are not based on the cost of
17 individual shipments. Of even greater
18 importance is the fact that the
19 large profits made by motor carriers
20 from many of these rates have enabled
21 them to profitably back-haul certain
22 traffic which under normal circum-
23 stances would be outside their economic
24 sphere of operations on the basis of
25 their true costs.."

26 Q. What is the date of that? --

27 THE CHAIRMAN: What are you quoting from?

28 THE WITNESS: This is a prize essay that

29 Mr. Scott wrote for "Railway Age," and the date is
30 1956.



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THE CHAIRMAN: Was it published in Railway Age?

THE WITNESS: Yes.

MR. SINCLAIR: Yes, it was.

THE WITNESS: I would like to continue on the practical aspect of this, Mr. Sinclair, if you don't mind, for a minute.

Mr. Alfred E. Perlman wrote an article "Scrap This Antiquated Price Structure!"

MR. SINCLAIR: Q. You referred to that in your brief?

A. I referred to that in the brief.

I would like to read a couple of lines in "British Transport Review," dated April 1957:

"The railroads in the United States can cure this evil. We have the power to go out and find out what our costs are. We have the power to build a sensible rate structure based upon those costs, with standby charges built into the rate structure so that a customer's load factor, demand and volume can all be taken into account. Since the days of the wood-burning locomotives we have grasped all that technology could offer us to change our physical plants and have come a long way in adapting new methods to our operations. The



1
2 operating officer who would try to live
3 today with the old wood-burners would
4 be classed as mentally obsolete.
5 When will we recognise the need for
6 modern thinking to replace our old
7 wood-burning rate structure?..."

8 Q. Well, I think that you have put that in
9 the record two or three times; but let me ask you
10 if you recall a man by the name of R.B. Robinson,
11 who was the manager of the British Columbia division
12 of the Canadian Manufacturers Association, and who
13 was one of the gentlemen that you were calling upon
14 with the practical traffic men in his organization
15 for advice in dealing with the brief? Do you remember
16 him?

17 A. I don't know the gentleman; I don't
18 know him very well, I should say.

19 Q. Let me ask you if you agree with
20 this: "On the whole it would not appear from
21 what is advanced in this summary that
22 the resultant rate structure would
23 be any less a 'mess' or less complacated
24 than that which we already have.

25 Frankly, Charlie, and as
26 you know, practical Traffic Managers
27 take a dim view of economists'
28 approaches to the solution of our
29 transportation problem. They may be
30



Hughes cr-ex
(Sinclair)

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2 wrong, of course, but you cannot blame
3 them if they hesitate to jump into the
4 unknown..."

5 Would you agree with that?

6 A. I can't blame them if they do
7 hesitate; but I am telling you that there are
8 practical men behind all commerce studies. The
9 railway president said it in "British Transport Review"
10 and Mr. Scott said it; and it isn't only the economists
11 who are leading the field in this respect -- by
12 no means.

13 Q. That is your view?

14 A. That is my view.

15 Q. Well, let me ask you this little
16 practical problem: Under your scheme what would
17 happen where a shipper is serving a market;
18 his plant is located on a light density branch line.
19 Another shipper, making the same goods, is also shipping
20 to the same market, but his plant is located on a
21 heavy density main line; and they are equidistant
22 from the market; and both movements would be captive
23 under your proposal. What would the rate be?

24 A. So long as the rate was above the
25 out-of-pocket cost and below the maximum fully
26 distributed cost then the railway can make the rate
27 whatever it wants.

28 Q. The railway can make the rate whatever
29 it wants?
30



Hughes cr-ex
(Sinclair)

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A. The same as it does now.

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Q. It could make the rate on the branch line movement to the junction of the branch and the main line on the fully distributed cost for that?

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A. It could equalize the rates for both plants, because now, as I understand, the railways do not want to move anything at less than out-of-pocket cost.

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Q. Will you please listen to my question:

The railway could put the rate on the fully-allocated cost on the branch line movement; is that correct?

A. If it wanted to do it it could; but there is no need to do it. If it is in competition with trucks...

Q. Just listen to the question. Captive traffic: The railway, under the proposal you have given, could put the rate on the fully distributed cost?

A. Yes.

Q. Fully allocated cost?

A. Yes.

Q. On the branch line movement; and because that cost would be substantially higher than the main line movement that would preclude the shipper on the branch line from getting his product to the market?

A. If the railway put the rate at fully distributed cost, yes -- as would probably happen now.



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Q. As would probably happen now?

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A. Yes.

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Q. Of course, I haven't got any purpose in pointing things out to you, but I think you are completely wrong, and I have given you the classic example of unjust discrimination.

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There is just one small point on page 15, part 2, and then I am finished. You quote Merrill Roberts' "Regulation and Economic Efficiency," and he says:

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"Fully distributed costs are a false pricing standard.." and you quoted that as proof?

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A. Yes.

Q. What Professor Roberts meant by that was fully distributed cost being the sole determinant of a rate; is that correct?

A. No; what Professor Roberts is talking about is that fully distributed costs are a false price standard for minimum rating.

Q. For a sole determinant of a rate, I suggest to you? --

THE CHAIRMAN: The next sentence can be read along with it.

THE WITNESS: I beg your pardon?

MR. SINCLAIR: Q. What I am suggesting is -- and the Chairman says the next sentence reads right along with it -- what I am saying to you is that



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what Professor Roberts was saying there -- what he means -- is that fully distributed costs are a false price standard as a sole determinant of a rate?

A. I don't think he is saying that.

Q. You don't?

A. He is certainly not saying it from the extract I have got here.

MR. SINCLAIR: I have no doubt we can clear this up, because a little bird has just told me that this gentleman may be here.

Q. Well, anyhow, that isn't what you think he means?

A. No.

Q. But, in any event, insofar as your scheme is concerned, if the price demand is inelastic, if the transportation demand is inelastic, under your proposal fully distributed costs are the sole determinant of the rate?

A. Well, I would like to say if the traffic is captive the fully distributed costs...

Q. ...are the sole determinant?

A. ...are the determinant of the maximum rate schedule, not of the rate.

Q. If the product that is moving is inelastic in its demand for transportation, or its price is inelastic, I suggest to you that under your scheme the sole determinant of the rate is fully distributed cost?



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2 A. I don't agree with you.

3 Q. Why?

4 A. Because, in the first place, I am
5 saying that it is captive traffic that should take
6 the maximum rate schedule and not the rate as to
7 fully distributed cost. I am not talking about
8 the rate; I am talking about the rate schedule
9 as being the fully distributed cost; whereas Mr.
10 Roberts is saying that fully distributed costs are
11 a false pricing standard, for various reasons.

12 Q. I am suggesting to you that under
13 your proposal if the demand for transportation of
14 the commodity is inelastic and price demand is in-
15 elastic and the traffic was captive the sole
16 determinant of the rate would be fully distributed
17 costs?

18 A. Well, again, I can say to you that
19 you have put it a little differently. Now you
20 have brought into it the fact of if there is
21 captive traffic. If it is captive traffic and the
22 demand is inelastic, then, again, the determinant of
23 the rate lies with the railway; the rate schedule is
24 the fully distributed costs, but not the rate.
25 The railway might want to make it the rate, but that
26 isn't the determinant in this scheme. That is up
27 to the railways.

28 Q. That is the result of your scheme?

29 A. Well, that is within the railways'
30 power.



Hughes cr-ex
(Sinclair)

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COMMISSIONER MANN: I don't quite understand this. Mr. Sinclair said to you that, under the conditions posed by him, the sole determinant of the rate would be fully distributed cost?

THE WITNESS: Yes.

COMMISSIONER MANN: Now, it was my understanding until you answered his question that fully distributed cost, under the conditions posed by Mr. Sinclair, was the ceiling -- the maximum?

THE WITNESS: That is the maximum

COMMISSIONER MANN: But the railway might be better off, on captive traffic, to charge a rate below fully distributed cost in the case posed by Mr. Sinclair?

THE WITNESS: That is right; that is what I am telling Mr. Sinclair, that this proposes a maximum rate schedule, and we have maximum rate schedules now; and the railway can charge what they like under the maximum.

COMMISSIONER MANN: It is quite clear there is no obligation on the railway, in the case of captive traffic, to charge at the level of fully distributed cost? There is a play there between out-of-pocket costs and fully distributed costs?

THE WITNESS: Yes; that is quite correct.

MR. SINCLAIR: Q. Mr. Hughes, arising out of Commissioner Mann's question I am going to take



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2 two or three minutes more. That answer is incorrect --
3 that the obligation on the railway to charge fully
4 distributed cost is the sole determinant of the rate.
5 I suggest there would be an obligation on the
6 railways before they could come and increase rates;
7 they would have to demonstrate to the Board of
8 Transport Commissioners that they were getting every
9 single penny that they could, and under the conditions
10 I gave you of inelastic demand and inelastic price
11 that would necessarily force the rate to the fully
12 distributed cost basis as the sole determinant.

13 A. But one of the reasons you are...

14 Q. Is that one?

15 A. You are correct in the context you have
16 given of inelastic demand; and, of course, if you
17 say that, you are right; but if there is no inelastic
18 demand then the railway might maximise its revenue by
19 actually reducing the rate below the fully dis-
20 tributed cost.

21 Q. You, on a number of occasions, have
22 referred to the fact that they might maximise their
23 contribution by lowering the rate; and you referred
24 to coal in the United States. You said that is
25 a good example; is that correct?

26 A. That is a good example. I can
27 think of others.

28 Q. The reason why coal makes such a
29 large contribution is because of the large proportion
30



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2 of coal that is moving; is that correct?

3 A. Yes; but... -- yes, all right.

4 Q. Now, if the railways of the United
5 States could show that they could get more money
6 out of coal by charging it at fully distributed
7 cost there would be an obligation on them, under your
8 method of rate-making, to increase the coal rates;
9 is that correct?

10 A. If they could show that, yes.

11 Lumber is another article carried in the
12 United States at less than fully distributed cost,
13 I believe, and it makes a very big contribution,
14 too.

15 MR. SINCLAIR: That is competitive traffic.

16 Well, Mr. Hughes, thank you very much. I
17 know that you and Mr. Guest and, apparently, Mr.
18 Brazier, from what he has said, worked very hard to
19 prepare this evidence for this Commission, and it
20 has been very interesting to discuss it.

21 MR. FRAWLEY: May I have the privilege
22 of asking one or two questions of Mr. Hughes arising
23 out of something that transpired between Mr.
24 Sinclair and Mr. Hughes?

25 THE CHAIRMAN: Yes, Mr. Frawley.



FURTHER CROSS-EXAMINATION BY MR. FRAWLEY

Q. Mr. Hughes, yesterday on page 13960 of the transcript you were discussing with Mr. Sinclair the piggyback operation. Reading from your answer at the bottom of page 13960:

" A. I gave you an example of 100 per cent empty return ratio as an extreme example, but many truckers don't have that. Piggyback operators on the railways today don't have any consideration of value of the commodity inside the van, and I have seen a lot of piggyback trains running about and it has nothing to do with the value of the commodity inside the trailers.

Q. Are you sure of that?

A. Yes, I am sure of that.

Q. Well, I suggest you are absolutely wrong because they take into account the factor of trucks as a common carrier, and they recognize that truck rates which enable the trucker to operate at a profit relate the value of the commodity. It may be a little complicated to get it, but I tell you it is there. Have you thought of that?

A. I have thought of it, and I



1
2 have discussed the situation with the
3 C.P.R.'s piggybacking -- I don't know
4 what you call them -- the chief of
5 piggybacking in the C.P.R. . . ."

6 Then followed some jocular interplay:

7 "A. Well, he knows something about
8 rate making; and he says: 'We don't take
9 account the value of the commodity in the
10 trailer; we look at the truck cost,' and
11 I am saying that it has nothing whatever
12 to do with the value of the commodity they
13 are carrying."

14 Then Mr. Sinclair went on to something else. I
15 quite agree with you, Mr. Hughes, and I would like to
16 ask you to have in mind Agreed charge No. 474, effective
17 September 15th, 1958, made between the C.P.R. and
18 Canadian Pacific Transport Company Limited on behalf of
19 itself and its subsidiaries, Dench of Canada Limited,
20 Expressway Truck Lines (Canada) Limited and Okay Valley
21 Freight Lines Limited. My reading of that agreed
22 charge ---

23 MR. SINCLAIR: Is that agreed charge still
24 in effect?

25 MR. FRAWLEY: That agreed charge is still in
26 effect, yes.

27 Q. I put it to you, Mr. Hughes, that when
28 you look at that agreed charge and you want to find out
29 how much it costs to move between, say, Brandon and
30 Calgary you will find it costs \$164 for a loaded van



1 regardless of the contents so long as the excluded
2 commodities are not in the van, and the excluded
3 commodities are -- and I read from Condition D, paragraph
4 8:

5 "The following commodities loaded on
6 semi-trailers are not included and will
7 not be accepted under the conditions of
8 this agreement: freight requiring transit
9 privileges, explosives high, household
10 goods and settlers' effects used, live-
11 stock, poultry live."

12
13 Isn't it a fact that, other than those excluded com-
14 modities, the shipping companies -- Dench of Canada,
15 for instance, to take the Alberta subsidiary of Canadian
16 Pacific Transport, if they wanted to ship a trailer
17 of any kind of freight, other than those excluded
18 commodities, they would pay Canadian Pacific Railways
19 \$164 regardless of the contents of the van?

20 A. Yes, this is a general way of making
21 piggyback rates today.

22 MR. SINCLAIR: That is exactly what I said.

23 MR. FRAWLEY: Q. That is the agreed charge,
24 and so far as I know, it is the only agreed charge cover-
25 ing piggyback operations in Canada. I may be wrong, but
26 that is the only one I have found. Then, there is
27 Canadian Freight Association, freight tariff No. 38-D,
28 CTC No. 1621, and that is an open tariff for the carriage
29 of loaded and empty trailers for for-hire carriers --
30 all for-hire carriers. I put it to you again, Mr. Hughes,



1 if you want to find out how much it would cost to ship
2 a loaded trailer containing any kind of freight except
3 the following excluded commodities -- automobiles,
4 buses, trucks and highway tractors new, explosives
5 Class A, explosives Class B, household goods and settlers'
6 effects used, livestock, poultry live, Royal mail,
7 semi-trailers or trailers new or used -- so long as
8 your freight did not come within that prohibited class,
9 then any kind of freight from the highest to the lowest
10 class would move, I suggest to you, from Fredericton
11 to Ottawa for \$1.97 per hundred with a 32,000-pound
12 minimum or from Medicine Hat to Toronto at \$6.60 per
13 hundredweight with a 34,000-pound minimum entirely
14 regardless of the value or even of the nature of the
15 commodity within the van. Is that not your under-
16 standing?
17

18 A. That is right, Mr. Frawley.

19 MR. FRAWLEY: Mr. Chairman, those were the
20 questions I wanted to ask Mr. Hughes, and now I would
21 like, if I may, to offer as an exhibit a rather for-
22 midable statement prepared by my office in Edmonton which
23 shows all agreed charges in effect as of May 24th, 1960.
24 I am only offering this as a reference work for the
25 Commission. I do not expect them to carry it about
26 with them on their travels, but it may be that some time
27 during their deliberations they may like to refer to an
28 agreed charge, and there is this information gathered at
29 considerable expense, but with great satisfaction.

30 THE CHAIRMAN: You want to file it?



1 MR. FRAWLEY: It has not yet received a
2 number.
3

4 ---EXHIBIT NO. 149: Document filed by Mr. Frawley
5 showing all agreed charges in
6 effect as of May 24th, 1960.

7 MR. FRAWLEY: It contains the interesting
8 information that as of May 24th, 1960 there were in
9 effect -- there had been filed; I will not say "in
10 effect", but there had been filed agreed charges up
11 to the number of 908, and I understand since the 24th
12 of May, because the wheel is constantly turning, that
13 now it has hit 999 -- yesterday morning. There are
14 in effect, of those 999 -- I should have the exact
15 figure, and I think I will get that and put it on the
16 record. It is somewhere between 850 and 900, I
17 think, still in effect. So, this is the agreed charge;
18 this is the technique which the railways have found to
19 be so effective, and I may say they have found it
20 increasingly effective since they succeeded, through a
21 fluke in the legislation, in getting rid of the one-and-
22 one-third rule on transcontinental traffic.

23 MR. SINCLAIR: Mr. Chairman, I don't know
24 that that is all set out on the exhibit which Mr. Frawley
25 has talked about, but, if it is, then the exhibit is
26 not factual and should not be taken by the Commission.
27 It is no fluke in the legislation.

28 THE CHAIRMAN: That is not in the exhibit.

29 MR. FRAWLEY: Is my friend saying that my
30 exhibit is not factual?



1 MR. SINCLAIR: I did not know whether you
2 were reading from the exhibit when you were using some
3 of the language in your last remark.

4 THE CHAIRMAN: He was only commenting.

5 MR. FRAWLEY: I was "reading" from my
6 practically inexhaustible mind on the subject of
7 agreed charges. I am told, thanks to the Commission's
8 traffic adviser, that there are 858 agreed charges
9 still in effect, the difference being that some of
10 the earlier ones have expired.

11 THE CHAIRMAN: Mr. Brazier?

12 MR. BRAZIER: Mr. Chairman, I presume some
13 of the members of the Commission may wish to ask Mr.
14 Hughes some questions, and, if I can speak to the
15 Commission after the questioning is all over, I have
16 a motion.

17
18 BY COMMISSIONER GOBEIL:

19 Q. I would like to have some information
20 on your Part 1 first. On page 17 in Part 1, your
21 lumber movement, you present it over eight years for
22 the commodity groups, but your lumber end of it seems
23 interesting to me. In 1950 you have a percentage of
24 distribution of 33 per cent for lumber. Four years
25 later you move 8 per cent more, and eight years later
26 you come to 20 per cent above 1950. Is it your
27 impression that this trend will go on, or do you expect
28 that in 1966, which is another eight years -- or,
29 six years from now -- that it may be 70 or 75 per cent
30 that the lumber may represent?



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2 A. I am not really well qualified to speak
3 about the future of the lumber industry. A lot of
4 the reasons for this are, increasing population and
5 wealth in the United States and Canada, and if that
6 continues to grow -- the population in both countries
7 grows -- I don't see why these percentages should not
8 keep on increasing.

9 Q. Well, is this increase compared to the
10 balance due to the fact that part of the other traffic
11 is lost to the railways because of other competitive
12 transport?

13 A. If you look in the percentage distri-
14 bution column you will see the mines have fallen down
15 quite a lot, which makes the other figures greater.
16 But, there is another factor. There is plywood and
17 these products which are ever-increasing, as I say, the
18 population's wealth.

19 Q. In the other column, under the title
20 "Delivered to foreign connections," how do you explain
21 this decrease on the forests from 1950 to 1954 when
22 you had them almost 16 per cent, and, in 1954 it
23 decreased to 10 per cent?

24 A. This 1954 was a bad year in the United
25 States economy; that is one reason. I remember that
26 as a recession year. Also, these are delivered to
27 foreign connections in British Columbia. It may have
28 been they had been routed to foreign connections in
29 Saskatchewan or further across the prairies.

30 Q. On page 19, in your table X-B, for



1 manufactured and miscellaneous -- agreed charges --
2 between Nova Scotia and New Brunswick there is a tre-
3 mendous difference in mileage: 600 compared to 1800.
4 What is the reason for that?

5 A. I will just get the working papers; I
6 will have to look at the waybill working papers. Very
7 often, with the small provinces, it has to do with the
8 size of the sample, and I will just check on that.

9 Q. I thought it may be a mistake, because
10 even in British Columbia, which normally should have the
11 longest haul, it is only half of what you have in
12 Nova Scotia.

13 A. I am sure it is not a mistake. We did
14 look at this some time before in Victoria, and it is not
15 a mistake.

16 MR. BRAZIER: Mr. Chairman, Mr. Guest advises
17 me the papers are not here.

18 COMMISSIONER GOBEIL: Well, all right; it
19 looked peculiar to me.

20 Q. On page 29, in discussing British
21 Columbia both-ways traffic, you refer in the second
22 column towards the end of the page to a statement by
23 Mr. Knowles where it is said that most of this normal
24 traffic moves on the western region, as was pointed out
25 to the Standing Committee on Railways, Canals and
26 Telegraph Lines in April, 1959. There Mr. Knowles
27 said that 56.7 per cent of the normal traffic moves
28 on the western region, 26.5 per cent moves in Ontario
29 and Quebec and 16.8 per cent on the maritime region.
30



1 know the reason for it.

2
3 Q. On page 53, and this is the last question
4 I have in this section, in the second column, the first
5 paragraph, you say:

6 "It will be noted that each rate
7 increase up to 1953 at first brought in
8 more revenue from normal traffic, but
9 since that time there has been a consider-
10 able decline."

11 What was the reason for that decline?

12 A. Because more and more of the normal
13 traffic, which is the more or less captive traffic, is
14 moving over into the competitive classes as rates go
15 higher and higher. It is because the truckers are
16 coming along primarily and taking this captive traffic
17 away from the railways. It is getting more and more
18 onto the trucks.

19 Q. Mr. Frawley has just handed us a big
20 document here: might it not be also simply due to the
21 fact that some of that normal traffic does not go to
22 trucks, but moves on agreed charges?

23 A. Yes, as it gets competitive and there
24 is a danger of it moving to the trucks, then the
25 railways may put it on a competitive or agreed charge
26 rate.

27 Q. If such is the case, it would not mean
28 that the railways are losing the traffic; it is just
29 going under another name -- agreed charge?

30 A. Yes, that is right, but the statistics do



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TORONTO, ONTARIO

Hughes
(Gobeil)

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1 show that the tonnage moving by railways -- the ton
2 mile of work moved by railways is not keeping up with
3 the increase in the production of the country. So, they
4 may not be losing the traffic, but they are not getting
5 their share of the new traffic that is coming along in
6 the rising economy.
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2 THE CHAIRMAN: Very well, Mr. Gobeil.

3 COMMISSIONER GOBEIL: Q. Mr. Hughes,
4 let me apply my layman approach to your cost of
5 service. Especially after yesterday afternoon, I
6 am a little bit mixed up. You would not change
7 anything about competitive traffic; your cost of
8 service as a first will not influence competitive
9 traffic at all?

10 A. Providing the competitive traffic was
11 being carried more than the out-of-pocket cost, then
12 it would not be influenced by the cost of service
13 principle.

14 Q. As it stands now, my understanding
15 was that is the way it is. It is not permitted
16 at a rate below variable or out-of-pocket costs?

17 A. It is not permitted, no, in competitive
18 traffic as defined in section 334; but other traffic
19 can be carried at out-of-pocket costs to the best
20 of my knowledge.

21 Q. Competitive traffic?

22 A. Non-competitive traffic. There is
23 a branch line deficit and there is a passenger deficit
24 also.

25 Q. I thought that no traffic would be carried
26 below variable costs.

27 MR. SINCLAIR: You are not wrong, Mr.
28 Commissioner.

29 THE CHAIRMAN: What is the law?
30



Hughes
(Gobeil)

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3 MR. BRAZIER: The law is, of course, that
4 it cannot be carried a rate which is non-
5 compensatory. Now, whether a non-compensatory rate
6 as measured today would be the same thing as
7 termed as out-of-pocket costs could only be found
8 after we determined what the out-of-pocket costs
9 are. The two terms may mean different things.

10 MR. SINCLAIR: With respect, I should say,
11 Commissioner Gobeil, that the long-term variable
12 costs may, with the techniques that are now here,
13 be able to be ascertained with greater precision, and
14 I think that is so; but a competitive rate under our
15 jurisprudence has always been one that meets out-
16 of-pocket costs and something in addition, and the
17 only refinement made is a closer ascertainment of
18 the out-of-pocket costs. This is not only on
19 competitive rates but on agreed charges, and there
20 is one single exception, and that is the statutory
21 rates on grain. This is obvious from a reading
22 of the Railway Act, section 328, and the provisions
23 of the Transport Act with respect to agreed charges,
24 and section 334 with respect to competitive traffic.

25 COMMISSIONER MANN: Mr. Sinclair, while
26 you are on your feet, could you draw our attention
27 to the section in the Transport Act, sub-section
28 in section 32, where there is a requirement for
29 compensatory rates?

30 MR. SINCLAIR: Sub-section (6):



1 "An agreed charge shall be made on the
2 established basis of rate making..."

3 Section 33, sub-section (3):

4 "In dealing with a reference under this
5 section the Board shall have regard to all considerations
6 that appear to it to be relevant, including the effect
7 that the making of the agreed charges has had or is
8 likely to have had on the net revenue of the carriers
9 who are parties to it."

10 COMMISSIONER MANN: And your view is
11 that this is, in effect, the same as the provisions
12 for compensatory rates under section 334 of the
13 Railway Act and the jurisdiction falls on the Board in
14 this case as well?

15 MR. SINCLAIR: Yes.

16 MR. FRAWLEY: I am sure my friend would like
17 to draw to the Commission's attention in that regard
18 the decision of the Board in the Cement Clinker case,
19 a judgment of Commissioner Knowles and concurred in
20 by Commissioner Wardrope, where out-of-pocket costs
21 plus some contribution, however small, to overhead
22 was frowned upon, and in that judgment it indicated
23 that all costs were costs which had to be taken into
24 account before one could say whether or not the rate
25 was compensatory or otherwise. I would like to
26 have that citation and give it to the Commission
27 rather than just rely on memory. I know the Cement
28 Clinker case, because I was in that case. It may
29 be that we have a new definition of compensatory, and by
30 compensatory a rate must return all of the costs.



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So what we are practically saying is --

THE CHAIRMAN: It must not be carried at a loss.

MR. FRAWLEY: Yes, and the money as paid for dividends, it is just the same as money paid for wages, it is just as much a cost as the money paid for ties. I thought I would put this into the record at this time.

MR. SINCLAIR: Of course, Mr. Chairman -- and I think there are a number of us here, including Mr. Frawley -- we have had various cases of what is called normal traffic, but in no case has the Board ever allowed a rate to be less than the variable cost. Now, what it should be above that has certainly caused various --

MR. FRAWLEY: I don't quarrel with that.

MR. SINCLAIR: I think it is useful now it is cleared up once and for all and there is general agreement at least between myself and Mr. Frawley on the subject.

COMMISSIONER GOBEL: Q. In practice, Mr. Hughes, your system would not change anything too serious as far as competitive traffic is concerned?

A. That is right.

Q. It is on the captive traffic that it would charge?

A. Yes.

Q. And then your minimum cost would be the



Hughes
(Gobeil)

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2 same as the competitive, that is out-of-pocket?

3 A. Yes, that is correct.

4 Q. And then the maximum, where I got all
5 mixed up yesterday afternoon. At first in reading
6 your brief I thought your maximum would be the
7 fully distributed cost, but later on you clarified
8 more by saying to Mr. Cooper that it could be, instead
9 of fully distributed being 100 per cent, 105 per cent
10 or 110 per cent, if the Board decided or the proper
11 authority decided that the maximum should be fixed
12 at such a rate?

13 A. Yes. Our original proposal in the brief,
14 and it is still our proposal really, is that rates,
15 the maximum rate schedule should be at fully distributed
16 costs, and then if in the examination it appears
17 that there may be some doubt whether the railways
18 will be able to live if that is the case, then we
19 go along and say in the initial case the rate
20 schedule may be fully distributed cost or the Board
21 may say it is reasonable to have it at 5 per cent
22 or 10 per cent or 25 per cent above fully distributed
23 cost, and once that decision is made for captive
24 traffic by the Board, then the percentage of fully
25 distributed costs remains at that and this will
26 automatically push up the dollars and cents in the
27 maximum rate schedule, but the percentage will not
28 change.

29 Q. I think I see your point. Let's put
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2 it another way. This year the fully distributed cost
3 or 110 per cent means for a certain product, say, 1.67
4 a ton-mile, and next year or two years later, due
5 to wage increase, your cost increases and the fully
6 distributed instead of being 1.67 might be 1.77?

7 A. That is right.

8 Q. Then the maximum will change, at least
9 the maximum for carrying that commodity, but your
10 maximum level will always be fully distributed or 110
11 per cent if the Board decides it is 110 per cent?

12 A. That is correct.

13 Q. It will always remain 100 per cent or
14 110 per cent?

15 A. Yes.

16 Q. But if the cost of service increases,
17 then the maximum would increase, too?

18 A. That is right.

19 Q. Now, on the effect of this project of
20 yours -- incidentally, you told Mr. Cooper the other
21 day that in 10 years from now you believe there will
22 be very little non-competitive freight left, normal traffic
23 left?

24 A. Yes.

25 Q. So if in ten years you say there is
26 none to speak of, what would be the use, since your
27 system affected only the non-competitive?

28 A. Well, as competition becomes greater
29 and greater, and we see it in the piggyback system
30 now, the railways may feel they have to put a



Hughes
(Gobeil)

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2 horizontal percentage increase on and push up the
3 rates on the captive traffic, and this system
4 would protect the captive traffic from an ever-
5 increasing burden on the smaller and smaller segments,
6 and we want to keep the costs of actually carrying
7 that traffic -- the captive traffic should get the
8 benefit of any decrease in costs over the next
9 few years because of modernization, and so on.

10 Q. Mr. Frawley yesterday was trying to find
11 out how it would affect Alberta. How would it
12 affect not only Alberta but any non-competitive traffic?
13 Which, according to you, are the most important
14 commodities which are being carried at non-competitive
15 rates, except grain for export, of course?

16 A. I think quite a lot of the non-
17 competitive traffic is now being carried at greater than
18 its fully distributed cost as a result of horizontal
19 percentage increases, and lumber, I believe, is one
20 of them; in certain markets, I am sure, it is being
21 carried at more than its fully distributed cost. I
22 can't think of an example of Alberta's traffic.

23 Q. Grain for domestic?

24 A. Grain for domestic is probably being
25 carried at more than its fully distributed cost.
26 So these are two categories where the rate could
27 well come down. But I cannot see these rates
28 at fully distributed cost going up to the maximum
29 schedule because the railway is probably maximizing
30



Hughes
(Gobeil)

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1
2 its revenue on these rates now.

3 Q. The rates will go down and the railways
4 will lose some money there?

5 A. Yes.

6 Q. And to get that money back they cannot
7 increase competitive rates. But are there some
8 competitive rates which are moving at below
9 fully distributed?

10 A. I think there will be, yes.

11 Q. Then the railways may have to get
12 their money back, may have to let go some commodities,
13 competitive, which are less remunerative. They will
14 have to leave that for trucks?

15 A. Yes. They will probably have to
16 get out of the short haul field in many commodities
17 in order to do that.

18 Q. Mr. Frawley was asking you yesterday and
19 then Commissioner Mann asked you if your system will
20 mean that there will be some rationalization and
21 there will be traffic which will automatically disappear,
22 and you said no. But that is what would happen.
23 Part of the traffic, the less remunerative traffic,
24 would go to a competitor?

25 A. That is right, yes, and branch line
26 traffic would be an example, where probably the truckers
27 could carry it below the railways' real cost and then
28 they could get the traffic.

29 Q. In this letter which was read yesterday,
30



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Mr. Hughes, the part I am interested in is on page
13937 in the transcript. Have those gentlemen of the
Forest Industries discussed with you your proposal?

5

6

7

A. No, only through the Advisory Committee,
and I don't remember any Forest man speaking to me
personally about it.

8

9

10

11

12

Q. They had not seen your brief?

A. When we go along to the Advisory Committee

we take an outline, a framework, we don't take the
actual brief, because it would have to be altered on
their recommendation.

13

14

15

Q. But this Council of Forest Industries,
of which Mr. Nicholson is the President, had seen your
brief?

16

17

18

19

A. They had seen it, they had seen the
outline. When we presented it to the Advisory Committee
we took an outline; they had seen the framework
before we presented it to the Advisory Committee.

20

21

22

23

24

25

26

MR. BRAZIER: Perhaps I could advise you,
sir. Of the names Mr. Sinclair read this morning,
there are two of those numbers, Mr. Andrews of the
British Columbia Lumber Manufacturers and Mr. Armstrong
of the Plywood Association are both members of our
Advisory Committee. They saw the brief in an
abbreviated draft form.

27

28

29

30

THE CHAIRMAN: That is Part 2.

MR. BRAZIER: Yes, Part 2. This is some
months ago they saw that abbreviated draft form,



1
2 and a meeting was held and it was discussed and then
3 it was completed, and at the time this letter was
4 written they had had the actual Part 2 in their
5 possession for several weeks. Copies were sent to
6 all the members of the Advisory Committee at the
7 same time they were forwarded to the Commission.
8 So Mr. Andrews and Mr. Armstrong would have received
9 copies of the brief, and Mr. Nicholson and the rest
10 of them would have received the information.

11 THE CHAIRMAN: Part 1 they would know
12 from February.

13 MR. BRAZIER: Yes.

14 THE CHAIRMAN: And also the cost of
15 service brief.

16 MR. BRAZIER: Yes.

17 COMMISSIONER GOBEIL: Q. Why I was asking
18 this was because on page 13937, line 14, they say:

19 "We are concerned as to whether, and,
20 if so, how the competitive factor,
21 which of course is recognized in the
22 present rail freight rate structure,
23 will apply if the new theory advanced
24 by the Government is approved and
25 adopted."

26 I thought there was one thing
27 clear, Mr. Hughes, that your system will not touch the
28 competitive rate?

29 A. That would seem to be so, Mr. Commissioner,
30 yes.



Hughes
(Gobeil)

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1
2 Q. That is why I was asking if they had
3 read it. They seem to be afraid of what it will
4 do to the competitive rates. So there is no cause
5 for alarm there?

6 A. I see no cause for alarm.

7 MR. SINCLAIR: It is that it will move to
8 trucks and then trucks would pay their full cost
9 of the highway.

10 MR. BRAZIER: I don't know what it has
11 to do with this letter.

12 COMMISSIONER GOBEIL: Those people may
13 have very good traffic experience, but do they have
14 the equivalent of Mr. Bandeen or Mr. Stenason in cost
15 study?

16 A. They would have to be very good men
17 to be as good as Mr. Bandeen and Mr. Stenason, I think.

18
19 BY COMMISSIONER MANN:

20
21 Q. Mr. Hughes, starting on a fairly large
22 basis first, would it be right to say that the philosophy
23 of the province of British Columbia with regard to
24 transport in the rate-making aspect is that the
25 province would prefer to rely on the forces of the
26 market place rather than the hand of the state?

27 A. That is right, Mr. Mann, yes.

28 Q. Would you agree with this, or perhaps
29 I should ask you whether you agree with it: Are
30 there any exceptions, are there any areas in which



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Hughes
(Mann)

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you see need for the state to regulate transportation,
and I am taking transportation in its widest sense
rather than railways.

Page 14033 follows



1
2 A. Yes, I see a need for regulation of
3 maximum rates on captive traffic, as I have said many
4 times, because with captive traffic very often the
5 sky is not the limit, and at present the classification
6 is the limit, which is about the same thing for many
7 commodities moving.

8 I see a need also for regulation of minimum
9 rates, partly for the protection of the captive shipper
10 and partly for the protection of the trucker.

11 Q. Let us see whether we can put that into a
12 general form and we can particularize it later. I
13 think that will make it easier.

14 Would you agree, then, that regulation might
15 be necessary in order to afford the public protection
16 against monopoly and to avoid destructive competition?
17 Would those be the two poles?

18 A. Yes, that is right.

19 Q. And is that what you have in mind . . .

20 A. That is what I have in mind.

21 Q. . . . when you talk about maximum rates
22 and minimum rates?

23 A. That is right, Mr. Mann.

24 Q. Now, Mr. Hughes, you had quite a dis-
25 cussion -- I think everybody has discussed it with you
26 so far -- about this value of the commodity that you
27 seem to put as a primary consideration in ratemaking.
28 After the barrage that you have been facing in the last
29 few days are you still of the opinion that value of the
30 commodity is the prime consideration in ratemaking, or



1 has your belief in that been weakened?

2
3 A. In fact, it has been strengthened by
4 what Mr. Sinclair said yesterday. He says it goes
5 right through the rate structure -- the value of the
6 commodity; and it was also pointed out that it didn't
7 apply where there is a great deal of competition -- and
8 an obvious example is in piggyback rates; and with
9 the rest of the rate structure, especially in non-
10 competitive groups, it goes all the way through and is
11 one of the reasons why we need a change in rate-making
12 philosophy.

13 Q. It is your belief, then, that the
14 Canadian Freight Classification, as we presently have
15 it, is primarily based on value of the commodity, and
16 that the other factors that enter into the assignment
17 of a rate are secondary in importance?

18 A. Yes; and there are many examples of that
19 in the classification.

20 Q. Well, I would like to read to you a
21 citation of a case decided by the Board of Transport
22 Commissioners, which goes by the unlikely name of
23 Thermos Bottle Company vs. Canadian Freight Association --
24 36 C.R.C., page 115. The passage I want to read to
25 you reads as follows:

26 "The value of a commodity is an
27 important one, although not a controlling
28 element in the determination of classifi-
29 cation rating, but very little weight can
30 be attached to a comparison of the percentage



1 proportion of freight charged to the
2 value of the commodity."

3 That is the end of the quote.
4

5 You see, there is the Board itself in this
6 case saying that the value of the commodity is an
7 important one, and then you will note the words " . . .
8 although not a controlling element . . . " Now, I
9 find it a little difficult to agree to having the value
10 of the commodity put as a primary element in classifi-
11 cation making when the Board itself feels it is not the
12 controlling one.

13 A. Well, as I say, you can take many examples
14 out of the classification. There are iron and steel
15 products and wire -- these are some particular examples
16 that I have picked out -- and it goes all the way
17 through; and in the light of what Mr. Edsforth said,
18 he put it at the top of his list; and Mr. Stenason in
19 his book -- I know it was applied to the United States --
20 but he talked about the value of the commodity pricing
21 riddled right through the rate structure in the United
22 States; and this is one of the main sicknesses of the
23 railways.

24 Q. But you say "value-of-commodity pricing."
25 I think the reference in the American publications is
26 to "value-of-service pricing".

27 A. This is what Mr. Stenason means in his
28 book. He is talking about value-of-service pricing
29 and he is meaning value-of-commodity pricing.

30 Q. I don't think I can agree with you, if



1 you equate the two things. By your own recommendation
2 there is the value of service and value of commodity?
3

4 A. Yes; I would put a definite distinction
5 on it. But he says that value of service rate making
6 as now practised -- and he is talking about value of
7 commodity pricing -- value of service rate making is
8 both unnecessary and undesirable. This is what he
9 says, and he is, of course, talking from elements in
10 the classification and throughout the rate structure.

11 Q. And you think this reference only refers
12 to the value of the commodity?

13 A. Yes; this is quite plain from the reading
14 of the book.

15 Q. I just wanted to see whether you had
16 changed your mind or were willing to modify your
17 original statement. You still stand in the belief
18 that value of commodity is the prime element in the
19 assignment of a classification rating in the classifi-
20 cation?

21 A. Yes; and my belief is strengthened by
22 what Mr. Sinclair said yesterday.

23 Q. Well, now, I don't intend to deal with
24 Part 1 of your submission. I think it has been
25 covered very adequately. Our discussion today will
26 be entirely on Part 2.

27 On page 5 at paragraph 11 you have a
28 sentence:

29 "No shipper will pay a higher freight
30 rate than the service is worth to him."



1 Well, now, would you agree that he would be willing
2 to pay more for the service if the value of the
3 commodity is great because then the freight cost is
4 a relatively small element of the selling price?

5 A. This would be so assuming there was a
6 monopoly for the transportation of that product.

7 Q. Yes?

8 A. Assuming there was a monopoly, as soon
9 as we get a monopoly for the carriage of silk -- which
10 is an item I have used frequently -- then the value of
11 the commodity has no relation to the value of trans-
12 portation service.

13 Q. Now, coming to page 12, paragraph 46,
14 you say there:

15 "It is in the public interest that
16 the transportation system of Canada be
17 operated at the lowest possible cost, and
18 this will be done by the shippers using
19 the system if they are given free choice
20 and if prices are based on costs."

21 Now, am I right in reading this paragraph in this way,
22 that when you talk about the transportation system of
23 Canada you have in mind something that is much larger
24 than the railways alone?

25 A. Yes.

26 Q. You mean all carriers?

27 A. Yes.

28 Q. Then, do you have to come to the conclusion
29 that the rates of all the carriers should be based on
30



1 cost?

2 A. Should reflect cost.

3 Q. Yes; well, let me modify that -- should
4 be cost-oriented?

5 A. Yes, they should be cost-oriented.

6 Q. Does that mean, in the first instance,
7 that the cost of all carriers must be ascertained by
8 someone?

9 A. No, it doesn't mean that. There must
10 be -- let me put this a little better. If you have
11 regulation of two forms of transportation, such as
12 trucking and railways, if they are both regulated by,
13 say, the federal government and there are companies with
14 other modes of competition then somebody has to determine
15 the true costs of each form of transportation, because
16 they may not be telling the truth on it; there may be
17 reasons for it. But if you have one that is unregulated,
18 such as the truckers, there is not the same reason for
19 anybody to get to know their costs. Truckers are
20 usually fairly small operators with very large variable
21 costs, and they naturally work on a cost of service
22 basis, providing that the railways would do the same
23 thing.

24 Q. You are familiar with Canadian Pacific and
25 Mr. Sinclair's other subsidiaries. Would you call them
26 very small? Take Smith, for instance?

27 A. No; but, of course, they are operating in
28 competition with a lot of small companies and very largely
29 with private truckers -- which is the main competitor in
30



1 transportation in Canada.

2 Q. But your objective, surely, is that we
3 should try in transport -- at least, I gather this
4 from what you said -- we should try in transport to
5 arrive at a system which will lead to optimum allocation
6 of resources?

7 A. Yes.

8 Q. Well, now, to the extent that carriers
9 other than the railways -- non-regulated carriers --
10 are not basing their rates, or are not having a cost-
11 oriented rate structure -- to that extent do you not
12 have the possibility of having misallocation of resources?
13

14 A. That is quite true; but as soon as the
15 railways made their cost of service rate making with
16 this competition then they have to follow suit.

17 Q. Well, do you think it is fair for one
18 mode of transportation to be forced into one mould, to
19 be asked to behave according to one standard, and for
20 another to be left entirely free?

21 A. Do I think it is fair? Well, I am
22 not really sure which point of view I am supposed to be
23 speaking from. I do think it is fair. There is not
24 the same necessity, if you are talking about trucking --
25 there is not the same necessity to regulate truckers as
26 vigorously as you have to do railroads.

27 Q. Why?

28 A. I don't see that truckers do have any
29 captive traffic.

30 Q. Let us take an example. Well, it won't



1
2 be an example. Let us take this hypothesis, that
3 you have an abandonment successfully contested by the
4 railways and the line is being withdrawn -- the
5 physical facilities have been abandoned. The people
6 along that line are now entirely dependent on the road
7 services. The provincial authority has only granted
8 one franchise to one trucker over this route. Would
9 you have a condition of functional monopoly there?

10 A. Yes; as soon as you bring in entry-
11 control then you do need maximum rate regulation, be-
12 cause, in effect, you are giving a monopoly.

13 Q. And if that were to happen in the Province
14 of British Columbia where you do have entry-control
15 you would then be driven to the conclusion that you
16 should have some protection against monopoly pricing on
17 this particular route?

18 A. Yes

19 Q. Then, if that is the case, would you
20 advocate for that particular truck line a cost-oriented
21 structure as to rates?

22 A. Yes; because if it is not cost-oriented
23 you will find the grocer goes and buys his own truck
24 and hauls his own goods.

25 Q. Let us take the other side of the philosophy
26 that underlies this scheme -- the protection of the public
27 against destructive competition, or the protection of
28 the carriers, for that matter, against destructive com-
29 petition.

30 Would a cost-oriented rate structure be better



1 suited to prevent destructive competition by the trucker
2 than the value of service rate structure?
3

4 A. I think so; and the reason is that I
5 draw a distinction between value of service and other
6 types of rate making; and there is nothing, in my
7 opinion, to prevent a value of service rate going down
8 below out-of-pocket costs, and the value of service may
9 be low because the trucking competition is high and the
10 railways could indulge in this predatory pricing.

11 Q. Mr. Hughes, you have quoted in Part 2 of
12 your brief several times the United States Department
13 of Commerce study of March, 1960, entitled, "Federal
14 Transportation Policy and Programme." I want to read
15 you something from page 6 of that policy statement,
16 under the heading of "Federal Investment and User Charges,"
17 and I would like to find out whether you agree, in
18 general, with what the United States Department of
19 Commerce thinks should be done in the United States and
20 whether it has any application to Canada:

21 "The government should evolve and
22 keep current a comprehensive plan for its
23 investment in all types of transport
24 facilities. Within each type of facility,
25 it should continue to develop adequate
26 standards of analysis to compare costs
27 with benefits for each project. It should
28 also devise standards by which to compare
29 each primary area of investment (high-
30 ways, rivers and harbours, airways and



1 airports) with the others and with
2 private transportation investment so
3 that investment decisions can be made
4 upon similar tests of need and public
5 advantage"

6 This is the passage I want to direct your attention to
7 particularly:

8 "User charges should be imposed
9 wherever transportation uses federal
10 facilities. All groups of users should,
11 as an ultimate goal, pay their fair
12 share of operation and maintenance costs,
13 as well as of new Federal investment
14 and interest."

15 Now, do you think that is a desirable thing in the
16 Canadian context?

17 A. As a general policy I wouldn't think so.
18 In the Canadian context we have areas -- communities --
19 which, if they had to pay for the full cost of building
20 a road -- they just wouldn't be there.

21 In the Canadian context I don't think that it
22 would be correct policy.

23 Q. It would not be correct policy?

24 A. No -- to insist on user charges for all
25 federally-owned facilities. I know a lot of small
26 docks and harbours and roads which have to be there to
27 keep the communities in existence; and this is in the
28 interest of Canadians as a whole.

29 Q. Then, I take it that you are familiar with
30



1 this "most popular recent textbook" on transportation,
2 by Meyer et al. At page 265:

3 "There can be little argument with
4 the general principle that wherever pos-
5 sible user cost pricing should be extended
6 eventually to the public provision of
7 transportation facilities. This does
8 not mean that it should be extended
9 immediately to new transportation indus-
10 tries where its early application might
11 stifle proper development. It does
12 mean, though, that a great deal more
13 time, attention and good research should
14 be given to the problem of exactly how
15 much it costs to provide certain
16 transportation facilities and how much
17 the users are currently contributing to
18 defraying these costs. Such knowledge
19 is now usually lacking."

20
21 That follows pretty well what the Department of Commerce
22 study shows. The reason I am putting this to you
23 is this, that if you agree that it is generally desir-
24 able, for the sake of optimum resources allocation, to
25 have a rate structure for all carriers based on costs,
26 well, then, it becomes imperative that the true cost
27 of these carriers be ascertained? Would that be
28 right?

29 A. With competing modes of transportation,
30 yes.



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Q. Their own costs?

A. I said when the carriers are competing.

But, you see, this is a situation where the railway
is much more efficient to carry goods a long way; it
is better than the trucks doing this.

Q. How do you know whether . . .

A. Well, I am saying something hypothetical-
ly now.



1 Q. Oh, yes.

2 A. So that the railway under competition
3 is going to get the goods; the goods are going on rail.
4 Now, it is quite valid to subsidize the railway because
5 it already has the goods, providing the traffic is
6 not switching its mode of transportation. Then you
7 still get proper allocation of resources in trans-
8 portation, if you are subsidizing the one that is going
9 to get the traffic anyway.

10 Q. I don't think I quite follow you there,
11 and I am sure it is not your fault. What I wanted to
12 find out from you was this: if it is desirable to have
13 a minimum resource outlay on transportation, I suppose
14 it follows that the most efficient carrier will carry
15 the commodities for which it is best suited?

16 A. Yes.

17 Q. Well, somewhere along the line one must
18 find out who the most efficient carrier is: how do you
19 propose he be found -- by empirical experience --
20 empirical testing?

21 A. In competition I think the shipper would
22 automatically find out. If there was competition,
23 the carriers would automatically gravitate towards
24 coordination. The carrier with the lowest costs
25 would tend to get the traffic, and the shipper could
26 choose the best type of transportation from his own
27 service requirements.

28 Q. Let me put this hypothesis to you:
29 supposing I have a situation where I give tremendous
30



1 operational subsidies, indirect subsidies, to the
2 highway carriers, and I give no subsidy at all to the
3 railways. Well, then, you say you rely on competition,
4 but haven't you obscured the true cost situation as
5 between the two carriers by loading one with a tremen-
6 dous amount of subsidy, and allowing him, by virtue
7 of that subsidy, to be a relatively low cost carrier?

8 A. Yes, but this is a very complex subject.
9 You may actually, by subsidizing the motor carrier --
10 and you can see this in the air lines -- you may be
11 fostering an infant industry. The eventual cost
12 of the carrier through subsidization now -- and we
13 have seen it with TCA -- by subsidization he may
14 eventually be the low-cost carrier, but in the long
15 run you are obscuring the true economic coordination.
16 The long-term interest is something else again.

17 Q. When you have outgrown the infant
18 industry stage and you are dealing with fully matured
19 carriers, how does this subsidy situation look then?

20 A. Well, you are obscuring the proper
21 allocation of economic resources. You are mis-
22 allocating resources, in other words.

23 Q. So, it would be desirable to have some
24 knowledge of the true costs of all carriers until this
25 stage of equal maturity of all carriers?

26 A. If there is any subsidy programme for
27 any of the carriers, then it is necessary for the
28 subsidizing body to have a knowledge of the costs of
29 the carriers, yes.
30



1 Q. On page 16, paragraph 56, you have a
2 discussion on variations in route costs, and you say:

3 "On routes where rail costs are high
4 but rates are low, traffic is attracted
5 from relatively low-cost competitors,
6 thus leading to economic waste."

7 The example there, or the statement there, is in
8 relation to intermodal competition only. Does it,
9 in your opinion, also hold true on intramodal competition?

10 A. Yes.

11 Q. Mr. Sinclair, for instance, gave you --
12 and you will forgive my reference to the Atlantic
13 provinces, but Mr. Sinclair gave you an example of the
14 three lines through the maritimes which he has discussed
15 before various commissions in the last ten or twelve
16 years, and I think he left you with the impression that
17 the C.P.R. short line through Maine would probably be
18 the lowest cost of the three?

19 A. Yes.

20 Q. In that case would you say that optimum
21 resource allocation would require the routing of
22 traffic between certain parts of the maritimes and
23 central Canada over the C.P.R. line?

24 A. Yes. Again, it is complex because if
25 you did that, the C.P.R. line would become congested
26 and the out-of-pocket costs would probably rise above
27 the costs of the other two carriers.

28 Q. Supposing we had about 60 per cent
29 excess capacity on that line?
30



1
2 A. Then my proposal would put the traffic
3 on the C.P.R. This is not the proposal, but the
4 minimum rate schedules would reflect that and the
5 railways could do what they wanted above that.

6 Q. In other words, what you are saying,
7 then, is that your belief in competition, in the
8 efficacy of competition, extends much further than
9 competition between various modes of transportation;
10 it extends also to much more intensive competition
11 between the railways themselves?

12 A. It does not necessarily follow as long
13 as the high-cost line is recovering its out-of-pocket
14 costs from the rates; then, there is no reason why
15 the two railways should not be the same.

16 Q. I understand that, and we will come back
17 to that a little later.

18 Mr. Hughes, we might come back to these
19 other questions if we have any time left, but I want
20 to give some consideration as to what would likely
21 disappear under the British Columbia government's
22 proposal for changes in the rate structure. Perhaps
23 we might discuss that for a little while. Would you
24 agree that under your proposal there would be no more
25 class rates as ceilings for all traffic?

26 A. That is right.

27 Q. Would you also agree that the designa-
28 tion of traffic as "commodity rated" or "competitive
29 rated" would disappear as well?

30 A. Yes.



1 Q. The reason for that would be, I suppose,
2 that all rates on non-captive traffic are by definition
3 competitive?
4

5 A. Yes, that is right.

6 Q. I want to discuss the effect of your
7 proposal on the long haul-short haul restrictions and
8 the one-and-one-third rule. Would you agree that the
9 long haul-short haul descriptions presently in the Act
10 and one-and-one-third rule would automatically disappear
11 with the adoption of the British Columbia proposal?

12 A. I am aware of that, yes.

13 Q. The reason would be that in competitive
14 conditions which underlie the assumption of your
15 division of traffic in the captive and non-captive --
16 all non-captive traffic is by definition competitive?

17 A. Yes.

18 Q. Then, being cost-oriented, the rates
19 to intermediate points should reflect lower costs and
20 result in lower rates. Hence, one would argue that
21 the protection presently accorded the short haul
22 intermediate traffic moving on class and commodity rates
23 would disappear?

24 A. Yes

25 Q. The next thing I suggest to you that is
26 likely to disappear under your proposal would be
27 equalization as a matter of policy, and the reason for
28 that would be the costs may differ in special rate
29 territories?

30 A. Not quite. Costs may differ on particular



1 routes. There may be high cost routes or low cost
2 routes, but not in rate territories, because you can
3 get both in rate territories.
4

5 Q. With that qualification as between rate
6 territories, equalization would no longer be defensible
7 under your proposal?

8 A. That is right.

9 Q. Would it be right to say that unjust
10 discrimination and undue preference with regard to rates
11 on non-captive traffic would disappear? Let me suggest
12 why that might be the case: if non-captive traffic is
13 by definition competitive and cost considerations under-
14 lie the allocation of traffic between carriers, can
15 there be unjust discrimination or undue preference
16 as long as the railway does not set a rate on non-
17 captive traffic which is above long run out-of-pocket
18 costs?

19 A. Above or below long run out-of-pocket
20 costs?

21 Q. Yes.

22 A. I can still see the odd situation arising
23 of undue preference and discrimination, and I would
24 not like to see the provision taken out of the Act until
25 it is seen just what is going to happen. Probably the
26 regulators will become more cost-minded, but at present
27 I would not take the provision out of the Act.

28 Q. This is merely a sort of cost attitude on
29 your part, but would you agree that because of the
30 system as a whole you don't really need that in the



1 long run, given due conditions.

2 A. You don't really need it. It would be
3 very difficult to bring a case of undue preference
4 and discrimination because there would not be any.

5 Q. In Britain there is no more undue dis-
6 crimination?

7 A. That is right.

8 Q. Another thing that I suggest to you --
9 and I think Mr. Sinclair has covered it -- that would
10 disappear under your rate structure is the experience
11 we have today of branch line rates being on the same
12 level as main line rates; that will disappear too?

13 A. Yes, there are different differentials
14 for route costs. I must say that I am talking about
15 the rate schedules will be different, not necessarily
16 the rates.

17 Q. Well, these different cost characteris-
18 tics would likely require differential rate making for
19 captive traffic and for non-captive traffic moving
20 near long-run out-of-pocket costs on branch lines?

21 A. Yes, it could happen, depending on the
22 cost structure.

23 Q. Another thing that would vanish from the
24 present rate structure that we have is the equality of
25 rates over different routes on captive and non-captive
26 ptraffic moving at long run out-of-pocket costs.
27 Would you agree that would be the case?

28 A. If they are both moving at long run out-
29 of-pocket costs, then there would be no equality in
30



1 the rates, that is true.

2 Q. The reason I thought they might disappear
3 is this, that if captive traffic moves at the maximum
4 rate of fully distributed costs on the cheaper of
5 two competitive railways, the higher cost route cannot
6 match the rate of the lower cost route. If non-captive
7 traffic moves over the cheaper of two competitive routes,
8 which is at the level of long run out-of-pocket costs,
9 the higher cost route could not match the rate over the
10 lower cost route, and this would probably lead to the
11 reallocation of some traffic as between the railways
12 which now moves between competitive points at the
13 same rates?

14 A. This would be the case: there would be
15 a reallocation of traffic, given the conditions that
16 you postulate -- traffic moving at long run out-of-
17 pocket costs.

18 Q. One of the immediate consequences of that
19 might be the need to amend Section 32 of the Transport
20 Act with regard to joint participation in agreed charges
21 by railways serving competitive points?

22 A. I can't really see this arising because
23 -- well, unless I know what the costs are for agreed
24 charge traffic.

25 Q. That is understood.

26 A. That would have to be assumed.

27 Q. Yes. Another thing that I wondered
28 whether it would disappear under your rate scheme would
29 be the need of general revenue cases before the Board,
30



1 and the reason I am suggesting this to you is as follows:
2 approval or supervision by the Board will only be
3 necessary for two kinds of rates: one, maximum rates on
4 all traffic, and, two, maximum rates on captive
5 traffic?
6

7 A. Minimum rates.

8 Q. I am sorry: minimum rates on all traffic
9 and maximum rates on captive traffic?

10 A. Yes, general revenue cases before the
11 Board would disappear.

12 Q. Specific rates, while they are filed
13 with the Board, will, under your system, be subject
14 to challenge if they are above the minimum rates on
15 all traffic and above the minimum but below the maximum
16 on captive traffic? There will be no need for approval
17 by the Board of specific rates?

18 A. That is right, subject to the undue
19 preference and discrimination that I should not like
20 to see taken out of the Act.

21 Q. That is a gradually disappearing thing,
22 based on experience?

23 A. Yes.

24 Q. Would it be right to say that if the
25 railways need more revenue, all they need to do is
26 increase without Board approval rates in the non-
27 captive category and/or those in the captive category
28 which are below fully distributed costs?

29 A. That is right.

30 Q. You agree with that?



1
2 A. That is right, subject to filing and
3 whatever other regulations there would be.

4 Q. I want to explore with you what the
5 area is for the Board's authority in regard to rates
6 in case of the railways' need for increased revenues.
7 Would you agree that the Board's authorization is only
8 required when the railways want to increase their
9 maxima on captive traffic, and in that case they must
10 make a showing of increased costs?

11 A. That is when it would be needed, yes.

12 Q. But there is no need for the railways to
13 apply for authority to increase their minimum cost
14 schedules? These, I suggest to you, can be raised
15 at the discretion of the carriers on anything? I
16 can't quite understand why the railways need have
17 authority to increase their rates above the minima?

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25 (Page 14060 follows)
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Hughes
(Mann)

14060

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2 A. If the railways' costs increase, then
3 the minimum rate schedules should be increased not
4 by authorization of the Board so much as by order
5 of the Board.

6 Q. Correct. In other words, the railways
7 need not apply to the Board, but you think it is
8 the Board's duty to keep itself informed as to little
9 or long-run out-of-pocket costs of the railways?

10 A. I certainly do, yes.

11 Q. And if the Board finds, because of certain
12 factors, the railways' long-run out-of-pocket costs
13 have risen to some appreciable extent, then the Board
14 would authorize an increase in the minimum rate
15 schedule filed but not necessarily published?

16 A. Yes.

17 Q. That probably requires an extremely
18 strong cost finding section of the Board or whatever
19 cost section might deal with railway rates?

20 A. Yes, it would need a strong cost finding
21 section; but we have heard that the railways have
22 quite a lot of costs, and I think control methods
23 could be set up in the light of our present knowledge.

24 Q. Do you think the railways would be
25 helped by the disappearance of general revenue cases?

26 A. I think so, yes. I am quite sure they
27 would be helped. They would be able to take full
28 advantage of market conditions.

29 Q. Are there other reasons that you might
30



1
2 be able to suggest?

3 A. In general revenue cases I think they
4 will eventually come to a point of decreasing returns,
5 which is, I think, happening now on the normal traffic.
6 The percentages will go up and up and there will be
7 a point when they can't do it any more.

8 Q. What happens then?

9 A. Well, they will have to go out and test
10 the market elasticities and go in for cost reduction,
11 and they will have to get rid of their surpluses.
12 A rate increase without any idea of selectivity would
13 not do the railways any good and it would not do the
14 captive shippers any good.

15 Q. Supposing the railways were faced --
16 go back to the 17 per cent case -- with an extremely
17 sizeable increase in their wage structure. Do you
18 mean they go to the Board -- and you have read cases,
19 decisions of the Board, and perhaps some proceedings
20 before the Board, and one of the complaints, both
21 in Canada and in the United States, by the railways
22 is that there is a time lag between the time they apply
23 for a rate and get the rate. Now, with the
24 disappearance of the general revenue cases, do you
25 think that the railways will be able to better adjust
26 themselves?

27 A. Yes. They could just file a tariff
28 and increase their rates whenever they wanted to.
29 There would not be any need for a lump increase each
30



Hughes
(Mann)

14062

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2 year; it will be an adjustment with the market going on
3 all the time.

4 Q. I have a list here, and it is by no
5 means an exhaustive list. There is a point I would
6 like very much to get your opinion on. Do you think
7 that under your system there is any more need for the
8 requirements formula under the Board of Transport
9 Commissioners?

10 A. I can't see any need for the re-
11 quirements formula if this scheme is adopted and if
12 the captive traffic is subjected to rates which we
13 would like to see under the cost of service, there
14 would be no need for the railways' earnings to be
15 limited by a requirements formula.

16 Q. With this ease of adjustment to market
17 conditions, the disappearance of going to the Board,
18 the disappearance of the requirements formula, do
19 you think that this would result, in the opinion of
20 the province of British Columbia, in a more rationally
21 located railway system and a railway system that would
22 more readily adjust itself to the situation than is
23 now the case?

24 A. I am quite certain of that.

25 Q. Why do you say that?

26 A. Because we are going to get more
27 competition, and the sooner regulation of the
28 railways is adjusted to competitive positions instead
29 of being based on the idea of railway monopoly, the
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Hughes
(Mann)

14063

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sooner we get to that the better, providing we can sufficiently protect the captive traffic.

THE CHAIRMAN: I am afraid we can't allow Mr. Hughes to go unless we cut down on the questions. It is a great pity.

MR. BRAZIER: It certainly is, and it is completely my fault. I knew that Commissioner Mann had some questions that he would want to ask. I had no idea that they were going to be as extensive as they proved to be, and, of course, last night Mr. Sinclair said he would be half an hour and we thought there would be ample time this morning and arrangements were made.

MR. SINCLAIR: I might say before my friend starts that there is one point, seeing that British Columbia is here. I think it should be brought to the attention of the Commission that the railway owned by the province of British Columbia, the Pacific Eastern, has not adopted this concept of rate-making, and it is wholly within their control to experiment with it as they wish.

THE CHAIRMAN: Just one or two questions, Mr. Hughes.

BY THE CHAIRMAN:

Q. Your whole scheme is predicated on the early disappearance of the branch lines?

A. I wouldn't say early disappearance,



1
2 but just as soon as possible, as soon as the railways
3 can get round to looking at the costs on the lines,
4 then the public interest is sufficiently protected,
5 and then we would hope to see a disappearance of
6 all the low density branch lines, yes.

7 Q. And this scheme is really predicated
8 on that?

9 A. Well, under the factors, Mr. Chairman;
10 there are a lot of modernization factors which may
11 actually bring down costs in other railway operations.

12 Q. I am interested in knowing what the
13 technique will be, say in the increase in cost for
14 labour alone. Now, you have wiped out all revenues.
15 Now, in whose judgment would rates be raised?

16 A. The rates would be raised entirely in the
17 railways' judgment. They could do exactly as any
18 competitive business does; if their costs increase they
19 can go out and reduce costs in other areas, or they could
20 increase tariffs selectively, and when wages go up in
21 the railways we must not forget that the costs go up
22 in the whole economy, and so the competitors' costs will
23 go up, and if the railways put their rates up, then
24 the competitors would, no doubt, put theirs up, too --
25 at least some of them would.

26 Q. You think that other competitors' rates
27 should be in sympathy with the railway rates?

28 A. Yes. This is what has traditionally
29 happened.
30



Hughes
(Chairman)

14065

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2 Q. But you wouldn't suggest regulation then?

3 A. No.

4 MR. BRAZIER: Mr. Chairman, I was just going
5 to state to yourself and the members of the Commission
6 that particularly the part 2 of our brief which we
7 have put forward is rather novel, we appreciate that,
8 and I am sure the Board is going to hear a great
9 deal of further evidence, either supporting or
10 criticising, and I am quite sure there will be a
11 great deal of criticising of it before the hearings
12 are completed, and we would welcome the opportunity,
13 after the other parties have had their say as to
14 criticism of it, of filing a further submission after
15 the criticism, if that is necessary, so that Mr.
16 Hughes would be available for further questioning.
17 But it will be tested in the hearings of this
18 Commission, and we will come forward not to simply
19 defend our position but to attempt to explain the
20 criticisms which are brought out. I think in that
21 way it will serve a useful purpose for the consider-
22 ations that the Commission will be giving to this
23 brief.

24 On that basis, therefore, I would like
25 to formally move today that Canadian Pacific and Canadian
26 National Railways be instructed to give to us the
27 full cost study which they have made in respect to
28 lumber. We know they have made it, they have given
29 us the figures confidentially, and they can't say it
30



Hughes
(Chairman)

14066

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2 is something that is going to take a great deal
3 of time, and I formally make that motion to the
4 Commission.

5 MR. FRAWLEY: I would like, of course, to
6 say with respect to that that I am on record, perhaps --
7 I was going to say longer than my friend Mr. Brazier,
8 but that isn't important at all -- and I was going
9 to say that the people I have retained to find the
10 cost and value of service have found it very
11 difficult to explore the thing because the information
12 was not available, and I would move, as Mr. Brazier,
13 the Commission that there be made available to me
14 and to the consultants I have retained cost information
15 showing the relationship between revenue and cost of
16 a wide variety of traffics which are in the Canadian
17 freight rate structure.

18 THE CHAIRMAN: Of course, I refer to the
19 record of yesterday and what Mr. Hughes said in
20 connection with his idea of what B.C.'s suggestion is
21 in regard to the cost section. At page 13942:

22 "THE CHAIRMAN: We have had lots of
23 words on costs. As I understand Mr.
24 Hughes he suggested a Costing Section
25 of the Board of Transport, did you not?

26 THE WITNESS: Yes, sir.

27 THE CHAIRMAN: And that it would cost
28 and have the information there for its
29 own information?
30



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

Hughes
(Chairman)

14067

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2 "THE WITNESS: For its own information,
3 yes.

4 THE CHAIRMAN: Not for Mr. Brazier, Mr.
5 Frawley or anybody else?

6 THE WITNESS: That is right, sir."
7

8 MR. FRAWLEY: Then I must choose to
9 dissociate myself with that kind of hole-in-the-wall
10 cost section which would be of no good to the
11 shippers at all.

12 THE CHAIRMAN: We will reserve on that.

13 MR. BRAZIER: There was one point as to
14 the members of the Advisory Committee.

15 COMMISSIONER MANN: We have already got
16 that.

17 THE CHAIRMAN: We will adjourn until
18 2.30.
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2 ---On resuming at 2.30 p.m.

3 THE CHAIRMAN: Order, please.

4 The Commission is most concerned with making
5 headway and most concerned with getting some settlement
6 to this very vexed question of costing; and the
7 Commission is very concerned to get the information
8 itself.

9 To the end of shortening things up Mr. Cooper
10 has been instructed by us, and he has met with the
11 railways and he has been in touch also, this morning,
12 with Mr. Mauro, and I may say that the railways
13 reluctantly have more or less abandoned certain rights
14 in cross-examination -- and lengthy cross-examination
15 -- in order to try to get some agreement.

16 Now, the Commission has made a memorandum,
17 which Mr. Cooper will now read, and this is what we plan
18 on doing.

19 MR. COOPER: The Commission has given care-
20 ful consideration to the procedure which should be
21 followed to expedite the disposition of the submissions
22 on costing matters to be presented by the provinces of
23 Alberta and Manitoba and by United Grain Growers
24 Limited and the Wheat Pools.

25 The Commission is of the opinion that the
26 submissions in these matters to be presented by the
27 various cost experts retained should be referred to and
28 dealt with by a meeting of such experts and those of
29 the railways under the chairmanship of Dr. D. E. Armstrong
30



1
2 after the evidence of such experts has been given in
3 chief and before cross-examination thereon.

4 This meeting will be held in Montreal, com-
5 mencing on a date to be announced, and will be attended
6 by the Commission as observers. No counsel will be
7 present.

8 At this meeting: --

9 (1) All submissions above referred to will be
10 discussed;

11 (2) Areas of agreement and disagreement will
12 be determined and delineated;

13 (3) Minutes of the proceedings will be taken
14 and a report made by Dr. Armstrong to the Commission
15 setting out the points of agreement and disagreement
16 between the parties;

17 (4) Opportunity for cross-examination of the
18 cost experts for the provinces and the grain trade in
19 public hearing will be afforded by the Commission on
20 dates to be announced. However, cross-examination
21 will be limited to the points of disagreement as report-
22 ed to the Commission by Dr. Armstrong.

23 The Commission wishes to make it clear to all
24 concerned that the procedure here set out for dealing
25 with this complicated and difficult area of its work
26 has been arrived at with the objects of saving time and
27 expense and of permitting the submissions to be developed
28 by the experts unfettered in so far as possible by the
29 difficulties of such development through the technique
30 of cross-examination of technical witnesses in public



1 hearings.

2 THE CHAIRMAN: And, Mr. Cooper, you have the
3 further information as to the Montreal hearings.
4

5 MR. COOPER: Yes.

6 This is a schedule of hearings, July and
7 September, 1960.

8 Within the Peribonca Room, the Queen Elizabeth
9 Hotel, July 4 to 6, the Government of the Province of
10 Quebec.

11 July 7 to 8, United Grain Growers.

12 The remaining portion of the time to be spent
13 in Montreal -- there being a total of two weeks -- to
14 be occupied by such other evidence as may be ready for
15 submission before the Commission at that time and which
16 the Commission may determine.

17 Within the Board of Transport Commissioners
18 hearing room, Union Station, Ottawa:

19 From September 12 to 30, commencement of
20 hearings of the provincial briefs in the following order:

- 21 (1) Atlantic Provinces
22 (2) Saskatchewan
23 (3) Manitoba
24 (4) Alberta

25 These briefs are due to be filed with the Commission
26 on August 15, 1960.

27 Grain marketing organizations will follow
28 the provinces. Submissions of the grain marketing
29 organizations are due August 15, 1960.

30 The Canadian National and Canadian Pacific



1 Railways will follow the grain marketing organizations.
2 Submissions from the railways are due September 15, 1960.

3 THE CHAIRMAN: Now, Mr. Frawley, will it be
4 possible for Dr. Borts to be in Montreal?

5 MR. FRAWLEY: That is not only possible, that
6 is expected.

7 THE CHAIRMAN: Well, then, if that is so
8 and if you have the Manitoba case ready for Montreal
9 we will have it.

10 MR. FRAWLEY: The Manitoba case?

11 THE CHAIRMAN: I think that has been indicated.
12 Is that right, Mr. Gobeil?

13 COMMISSIONER GOBEIL: Not the whole case, but
14 they might be ready to present part of their evidence
15 in Montreal.

16 MR. FRAWLEY: Manitoba?

17 COMMISSIONER GOBEIL: Yes.

18 MR. SINCLAIR: As I understand it, Dr. Borts
19 will present evidence in chief, and whatever that
20 evidence is will be discussed at the conference under
21 the chairmanship of Dr. Armstrong . . .

22 MR. FRAWLEY: No, no.

23 MR. SINCLAIR: And whatever various disagree-
24 ments there are in Dr. Borts' testimony I will be given
25 an opportunity at a date . . .

26 MR. FRAWLEY: As I understand it this is a
27 suggestion.

28 MR. SINCLAIR: Just a minute.

29 THE CHAIRMAN: It is more than a suggestion.
30



1 We are ruling. We have got to get on with this business
2 some how. We have got to finish this Commission.

3 MR. SINCLAIR: And you were asking me if that
4 was all right, and my answer to you is that I would like
5 to say that, after I get the areas of disagreement, I
6 would like to have sufficient time from the date I get
7 them to have an opportunity to analyse them.

8 THE CHAIRMAN: We can cross that bridge
9 when we come to it, Mr. Sinclair.

10 COMMISSIONER GOBEIL: You mean that with the
11 schedule given to counsel you wouldn't have sufficient
12 time now -- from August 15 to September 15?

13 MR. SINCLAIR: Well, I don't know when I am
14 going to get the areas of disagreement memoranda.

15 All I am saying is -- and I am quite sure the
16 Commission will recognize this -- that I should have a
17 little time, or a reasonable time.

18 THE CHAIRMAN: Both you and Mr. Frawley should
19 have a reasonable time.

20 MR. FRAWLEY: I was going to ask Mr. Cooper to
21 be good enough to give me the sense of that memorandum
22 now. The meeting of experts which would be under the
23 chairmanship of Dr. Armstrong would be after what,
24 Mr. Cooper?

25 MR. COOPER: It would be after direct examina-
26 tion of the costing experts retained by the provinces,
27 the United Grain Growers and the Wheat Pools. After
28 their evidence in chief is in and before any cross-
29 examination this meeting would be held. The Commission
30



1 has not had all the information to enable it to put a
2 definite date on that meeting now -- among other things
3 because it would depend, to some extent, on the
4 availability of Dr. Armstrong, and, to some extent, on
5 other matters.

6 MR. SINCLAIR: I would take it, though, that
7 it couldn't be later, in view of what you say, than
8 the 15th of August, because all of the material will be
9 in the hands of people by that time?

10 THE CHAIRMAN: It will be assumed that it can
11 be arranged.

12 MR. SINCLAIR: But from what my friend
13 Mr. Cooper has now said, Dr. Borts may appear in July
14 to be examined in chief; Mr. Banks may not appear until
15 October or November and be examined in chief, notwith-
16 standing the fact that the material will have been
17 available since August.

18 This, to my mind, with greatest respect, is,
19 I think, an unnecessary delay in the matter, because
20 this means that the material will all be there but it
21 is not going to be looked at or dealt with by Dr.
22 Armstrong until after it has been formally presented
23 in the box, notwithstanding it has been filed with the
24 Commission and, presumably, copies given to us.

25 THE CHAIRMAN: Mr. Frawley, will Mr. Banks be
26 ready?

27 MR. FRAWLEY: Oh, well, that is a very, very
28 difficult matter -- made difficult, as you know, by the
29 fact that Exhibit 132 was filed, which sent him back to
30



1 Washington to rewrite his whole report. I would
2 rather not say anything more than that. That is a
3 very delicate subject -- the whole business.
4

5 THE CHAIRMAN: You say, Mr. Frawley, that
6 Dr. Borts will be ready.
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1 MR. FRAWLEY: That is a different matter.

2 I talked to Dr. Borts on the telephone the day before
3 yesterday and again last night. He asked Mr. Stenason
4 for certain information, and he had a telegram from Mr.
5 Stenason saying that it was in the mail, but up to
6 ten-thirty last night it had not arrived. He said
7 after he had that material for a week he could begin
8 to reproduce his memorandum. I would like to under-
9 stand what happens then. He will presumably appear on
10 the 11th of July and will go into the box and put in
11 his evidence in chief, and he will then be expected
12 to subject himself to a conference of the experts.
13 I may say that there is no reason why I should not tell
14 you what happened on the telephone last night: he
15 objected to that. He does not see any purpose in it.
16 However, if the Commission is ruling on it, I have to
17 look at it in a totally different way.

18
19 This statement which Mr. Cooper read said
20 this meeting would be held during the week commencing
21 the 11th of July.

22 MR. COOPER: No; the statement I have just
23 read, Mr. Chairman ---

24 MR. FRAWLEY: Oh, it will be just "whenever"
25 -- in other words, if Mr. Banks was ready, and as Mr.
26 Sinclair said, supposing he was ready in Ottawa in the
27 middle of September, just to take a date out of the air,
28 then he would present himself in the box. His brief
29 would be taken-- perhaps he would read it or it would
30 be taken as read, and he would go into this conference



1 with Mr. Armstrong and the railway experts. Dr.
2 Borts at that time is in London, which is completely
3 unsatisfactory to me. These men have been retained
4 together; these men are together as far as Manitoba
5 and Alberta are concerned, and we are spending a lot
6 of money to talk to them and to have them talk to
7 each other. As far as we are concerned it is Banks
8 and Borts -- not Banks by himself and then Borts
9 some time in September.

10
11 Now, I am not going to defy the Commission.
12 I am going to take the Commission's ruling, and then
13 take instructions. Mr. Borts comes up on the 11th
14 of July and then he goes into this conference with
15 Dr. Armstrong and the other costing experts shortly
16 after the 11th of July. Well, Mr. Banks will not be
17 ready on the 11th of July, or anywhere near that time
18 because of Exhibit No. 132. He comes up in, say,
19 the middle of September and goes into the box and
20 goes into the conference with Mr. Armstrong. Then
21 Mr. Saunders does the same -- just those three people;
22 there are no other cost experts to be called by the
23 provinces or the UGG or the Wheat Pools. I don't
24 know about Mr. Saunders, but it will be a piecemeal
25 proposition. There will be several meetings of that
26 Armstrong committee.

27 THE CHAIRMAN: Well, the one thing is that
28 we do not want people dragging their feet, and we have
29 to get on with the job of finishing it up.

30 MR. FRAWLEY: Well, Mr. Chairman, I think any



1 suggestion is worth a little questioning and criticism:
2 just what would be gained by this meeting of the cost
3 experts?
4

5 THE CHAIRMAN: Well, if you can suggest
6 anything better, we are concerned with getting the
7 thing cleaned up.

8 MR. FRAWLEY: But, as I understand it, it
9 is the desire to have agreement that is important.

10 THE CHAIRMAN: To eliminate disagreement.

11 MR. FRAWLEY: Or, to ascertain the areas of
12 disagreement, and the areas of disagreement would go
13 on for cross-examination. How about the areas of
14 agreement? Would there be ---

15 THE CHAIRMAN: That would be an admission
16 of facts.

17 MR. FRAWLEY: Well, if there is an area of
18 agreement, that is not going to be the subject of
19 cross-examination whether we have the experts' confer-
20 ence or not.

21 THE CHAIRMAN: Well, if the parties can
22 agree, that will be fine.

23 MR. SINCLAIR: But, very obviously, to get
24 agreement you have to get down and understand back and
25 forth, and I must say, for myself, that I would find
26 it time consuming and difficult to put questions to
27 Dr. Borts in the field in which he is an expert -- the
28 regression field -- and try to have you understand me.
29 I won't say whether you would understand or not. You
30 might understand Dr. Borts, but you may have difficulty



1 understanding me, when I am quite certain that Dr.
2 Borts and Dr. Armstrong and some people with a black-
3 board and a machine or a piece of paper can indicate
4 among themselves in ten minutes what might take me
5 two hours, and after I get finished say, "Now, I
6 understand it. This does this and that". I do
7 agree wholeheartedly that this technical material is
8 better handled by what I term the conference method of
9 experts and advice rather than the examination tech-
10 nique, because it does not lend itself to that.

11
12 MR. FRAWLEY: I am sure I will be pardoned
13 for saying the perfectly obvious thing, that it is just
14 all very well to come along with this idea now. After
15 all, I didn't do anything very much in the nature of a high-
16 brow cross-examination, but my colleague Mr. Mauro did,
17 and why should Mr. Mauro have to cross-examine Mr.
18 Stenason and Mr. Bandeen, and Mr. Sinclair not have to
19 cross-examine Dr. Borts? If I may say so, and I
20 am sure there is nothing sinister in this decision, it
21 looks awfully much like changing the rules in the middle
22 of the game.

23 THE CHAIRMAN: Oh, no.

24 MR. SINCLAIR: I would look forward to seeing
25 whether I could do the job in this way, and the only
26 way I will do it is by numbers -- one, two, three, four
27 -- and if I make a mistake I will say, "Well, Mr.
28 Chairman, I have made a mistake. Wipe it out and I
29 will start over again." It is bound to be tedious.
30 I would think I could give Dr. Borts maybe a little



1 rougher time in the witness box than he would have
2 explaining his material to a group of experts. It
3 may not be that the facts would get out -- and I think
4 that is what the Commission is looking for -- and
5 so far as this costing is concerned, the C.P.R. is
6 anxious to learn any improvement in techniques that
7 we can learn, and if Dr. Borts can show Canadian
8 Pacific a better way of getting costs, a more refined
9 way, a more accurate way, we are glad to have it.

10
11 THE CHAIRMAN: Well, as a matter of fact, this
12 idea was not yours.

13 MR. SINCLAIR: I might have had an advantage,
14 but it would be the advantage of getting out the facts.
15 I think there is too much at stake in this costing,
16 and in the determination of the true costs of handling
17 grain in western Canada to export positions, to think
18 other than this is the best way of getting at it. If
19 we can't agree in the expert field, that is a different
20 matter.

21 MR. FRAWLEY: Why the hit-and-miss type of
22 examination for us, and the perfectionist type for
23 Mr. Sinclair?

24 MR. SINCLAIR: You see, Mr. Chairman, from
25 September on our people were available and numerous
26 meetings were held with these experts -- Dr. Borts,
27 Mr. Banks, Mr. Saunders -- and I had a stack of
28 specific questions and answers. All our regression
29 methods were shown to them. No doubt they have run
30 them and tested them. No doubt in view of the



1 questions put, most of them were accepted -- or, I must
2 assume they were until I see something to the contrary.
3 But, I must start on the other assumption, that until
4 we can see what Mr. Borts and Mr. Banks ---

5 THE CHAIRMAN: Well, the date is to be
6 arranged, and we just want action, and that is the
7 ruling.
8

9 Now, in Montreal, we will have Quebec, UGG,
10 Dr. Borts and Mr. Stenason.

11 COMMISSIONER GOBEIL: Mr. Frawley, I would
12 like to ask you a question on the remarks that you
13 have just made, and I will have the same question for
14 Mr. Sinclair. Do your remarks imply that Alberta
15 will not be prepared to present the submission, as
16 ruled, on August 15th?

17 MR. FRAWLEY: No. Dr. Banks' report?

18 COMMISSIONER GOBEIL: No, no; the province?
19 Your remarks as stated don't mean that Alberta will
20 arrive on August the 15th and say, "We cannot present
21 our brief", do they?

22 MR. FRAWLEY: No, no.

23 COMMISSIONER GOBEIL: The brief will be
24 there on August 15th?

25 MR. FRAWLEY: Oh, yes, always excepting Mr.
26 Banks. I don't know what is involved with Mr. Banks
27 in redoing his whole brief, but if you are asking me
28 about the other brief, which is not related to the
29 Crow's Nest Pass matter at all, they will all be
30 filed by the 15th of August.



1 THE CHAIRMAN: The only thing is, we want the
2 hearings closed some time.

3 MR. SINCLAIR: I take it the Commission is
4 ruling ---

5 COMMISSIONER COBEIL: Excuse me, Mr. Sinclair.
6 In your case it is the same thing: I am not interested
7 in the costing study, but the C.P.R. submission -- you
8 are not implying it would not be ready for September
9 15th?

10 MR. SINCLAIR: No, Commissioner Gobeil. I
11 understood it was the ruling of the Commission that
12 all material for everyone, other than the railways,
13 was August 15th, and the railways' case was September
14 the 15th. That was the ruling, and we just have to
15 live with it, and we accept it, of course.

16 MR. FRAWLEY: I would not want any mis-
17 apprehension about Mr. Banks and his Crow's Nest Pass
18 grain cost study. All I know is, at very great
19 expense to us, he had to re-do his whole brief, and
20 I know he was working on it; he has been working on
21 it since November, and because of the new numbers he
22 got out of Exhibit 132, he has had to re-do that
23 brief.

24 THE CHAIRMAN: We will recess for fifteen
25 minutes and perhaps counsel can clear off the record
26 any misconception.

27 ---Short recess.

28 THE CHAIRMAN: Have you anything further to
29
30



1 report, Mr. Cooper?

2 MR. COOPER: No, I have nothing further to
3 report.

4 THE CHAIRMAN: Well, the Commission has made
5 its rulings, and we will adjourn to Montreal on July 4th,
6 in the Queen Elizabeth Hotel at ten o'clock.

7
8 ---Adjournment.



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